E/1994/31
E/CN.15/1994/12

United Nations

Commission on Crime Prevention and Criminal Justice

Report on the Third Session (26 April-6 May 1994)

Economic and Social Council

Official Records, 1994
Supplement No.11

E/1994/31
E/CN.15/1994/12

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United Nations • New York, 1994

NOTE

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ISSN 0257-0653

SUMMARY

At its third session, the Commission on Crime Prevention and Criminal Justice recommended to the Economic and Social Council the adoption of twelve draft resolutions and three draft decisions. In addition, it adopted five resolutions and two decisions to be brought to the attention of the Council.

In draft resolution I on organized transnational crime, the Council would reiterate its request to all Member States to be represented, at the highest possible level, at the World Ministerial Conference on Organized Transnational Crime to be held at Naples, Italy, from 24 to 26 October 1994, and take note of a document considered by the Commission, as a basis for substantive discussion. The Council would request the Secretary-General to submit background documents to the Conference and continue analysing and disseminating information on the incidence, expansion and effects of organized transnational crime, as well as collecting the provisions of national legislation, and make them available to Governments, at their request. The Council would also request the Secretary-General to provide, upon request, advisory services and practical assistance to Member States and conduct regional workshops and training programmes, calling upon Member States to extend their full cooperation in performing such a task. The Council would further request the Commission on Crime Prevention and Criminal Justice to coordinate efforts in that regard, according high priority to the question and giving appropriate follow-up to the results of the Conference.

In draft resolution II on control of the proceeds of crime, the Council would recommend to the World Ministerial Conference on Organized Transnational Crime to take into account the conclusions and recommendations of the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, held at Courmayeur, Italy, from 17 to 21 June 1993. It would request the Secretary-General to establish and maintain close cooperation with Member States, intergovernmental organizations and other entities with respect to the prevention and control of the laundering of the proceeds of crime and, within the overall existing resources, facilitate the organization of regional training seminars and elaborate model curricula and manuals for higher legal education. It would also invite Member States to avail themselves of the advisory services available through the United Nations crime prevention and criminal justice programme.

In draft resolution III on criminal justice action to combat the organized smuggling of illegal migrants across national boundaries, the Council would condemn the practice of smuggling of illegal migrants, recognize that such smuggling was a widespread international criminal activity, and acknowledge the substantial role played by organized transnational crime. It would reaffirm the need to observe fully international and national law in dealing with that problem and request States to share information, coordinate law enforcement activities and cooperate in order to trace and arrest those who organized such smuggling. It would also call upon Member States and relevant specialized agencies and international organizations to cooperate in that regard at the bilateral and multilateral levels, and respond promptly to the invitation of the General Assembly, contained in its resolution 48/102, to report to the Secretary-General on measures taken to combat the smuggling of aliens.

In draft resolution IV on the role of criminal law in the protection of the environment, the Council would take note of the recommendations of the Ad Hoc Expert Group on More Effective Forms of International Cooperation against

Transnational Crime, including Environmental Crime, held at Vienna from 7 to 10 December 1993, annexed to the draft resolution. In addition to inviting Member States and relevant bodies to continue their efforts in protecting nature and the environment, the Council would also request the United Nations Environment Programme and other organizations and bodies of the United Nations to take into account the above-mentioned recommendations in their deliberations concerning environmental protection, and coordinate any relevant follow-up activities related to criminal law with the Commission on Crime Prevention and Criminal Justice.

In draft resolution V on strengthening the United Nations crime prevention and criminal justice programme the Council would request the Secretary-General, as a matter of urgency, to give effect to General Assembly resolutions 46/152, 47/91 and 48/103 and to Council resolutions 1992/22 and 1993/31, and provide the Crime Prevention and Criminal Justice Branch with the required resources to fully implement its mandate, and establish one post for the programme at the D-2 level. It would also request the Secretary-General to provide adequate funds to build the institutional and operational capacity of the programme to render technical assistance, and ensure implementation in the context of his first performance report on the programme budget for the biennium 1994-1995, if necessary and as appropriate, through the use of the contingency fund.

In draft resolution VI on a proposal for the development of minimum rules for the administration of criminal justice, the Council would note the draft minimum rules for the administration of criminal justice, prepared by an expert commission which met at Palma de Mallorca, Spain, in 1991 and 1992, request the Secretary-General to seek comments on the desirability of preparing and adopting such rules, and report to the Commission on Crime Prevention and Criminal Justice at its fourth session.

In draft resolution VII on United Nations standards and norms on crime prevention and criminal justice, the Council would reaffirm the important contribution that the use and application of United Nations standards and norms make to criminal justice systems, invite Member States to ensure their widest dissemination, endorse the questionnaires on their implementation and request the Secretary-General to promote their use and application through advisory services, training courses and the further development of manuals and guidelines.

In draft resolution VIII on preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Council would take action on the organizational arrangements of the Congress by accepting with gratitude the generous invitation of the Government of Tunisia to act as host, requesting the Secretary-General to appoint a Secretary-General, as well as an Executive Secretary of the Congress, in accordance with past practice, taking note of the reports of the five regional preparatory meetings and approving the proposals of the Secretary-General with respect to documentation. The Secretary-General would also be requested to facilitate the broader participation of developing countries, intensify public information activities, and maintain close cooperation with Governments and intergovernmental and non-governmental organizations, including proper coordination of workshops, so as to ensure adequate preparation and proper conduct of the Congress. As to the substantive arrangements, the Council would recommend to the Congress a number of ways to focus the discussion on the major substantive topics of the Congress, including international cooperation and technical assistance for strengthening the rule of law, prevention and control of national and transnational economic and organized crime, reform of criminal

justice and police systems, crime prevention strategies, promotion of coordination of effective ways to tackle corruption, as well as provide specific suggestions related to the six workshops.

In draft resolution IX on proposed guidelines for the prevention of urban crime, the Council would decide to forward the guidelines to the Ninth Congress for its consideration, and request the Commission on Crime Prevention and Criminal Justice to finalize the text at its fourth session, in the light of the comments made at the Congress, for subsequent publication in the most appropriate form.

In draft resolution X on the African Institute for the Prevention of Crime and the Treatment of Offenders, the Council would request the Secretary-General to ensure that the Institute was provided with adequate funds to fulfil its tasks, also with the assistance of the United Nations Development Programme, and strongly recommend revising its Statute in order to update the terms of reference, with a view to enabling it to respond to the needs of the African region.

In draft resolution XI on technical cooperation the Council would request the Secretary-General to take action on requests from Member States for advisory services and technical assistance by formulating specific projects and seeking funds for their execution, and establish a database on technical assistance, as well as on existing collaborative arrangements and funding. It would urge Member States to give full support to that endeavour by contributing financially and in kind and by providing a basic level of extrabudgetary funds. It would also invite Member States to include projects on crime prevention and criminal justice as part of their priority areas for development and urge them to coordinate their multilateral and bilateral technical cooperation projects with the United Nations crime prevention and criminal justice programme.

In draft resolution XII, the Council would decide to adopt the criterion and procedures for the affiliation with the United Nations of institutes or centres and the establishment of the United Nations subregional institutes in the field of crime prevention and criminal justice annexed to the resolution.

In resolution 3/1 on violence against women and children, the Commission called upon all Governments, as well as intergovernmental and non-governmental organizations, to take all possible steps to eliminate violence against women and children, and requested them to cooperate with and assist the special rapporteurs on those issues. It requested the Secretary-General to report at its fourth session on the activities of United Nations bodies and institutions with respect to those issues and requested the Ninth Congress to consider them in the context of the workshop on the prevention of violent crime.

In resolution 3/2 on international traffic in minors, the Commission requested the Council, at its substantive session of 1994, to consider practical proposals to improve the coordination of efforts being made by relevant entities to deal with that matter, invited the Latin American Institute for the Prevention of Crime and the Treatment of Offenders to prepare a report on the situation with regard to international traffic in minors, using information available to the United Nations system, for submission to the Commission at its fourth session, and decided that the matter should be given priority consideration by the Ninth Congress, under items 2 and 4 of its provisional agenda.

In resolution 3/3 on information management functions of the United Nations crime prevention and criminal justice programme, the Commission urged Member States to support the United Nations Criminal Justice Information Network by inviting criminal justice agencies to join the Network, providing statistical information, and assisting the Secretary-General in developing computerization projects and assistance. It requested the Secretary-General to consider strengthening the servicing of the clearing-house projects by allocating staff and other resources.

In resolution 3/4 on the succession of States in respect of international treaties on combating various manifestations of crime, the Commission urged successor States to confirm to appropriate depositories that they continued to be bound by obligations under relevant international treaties on combating crime to which their predecessor States were parties, and encouraged those that had not done so to consider becoming parties to those treaties to which their predecessor States were not parties.

In resolution 3/5 on coordination and cooperation between the Crime Prevention and Criminal Justice Branch of the Secretariat and the United Nations International Drug Control Programme, the Commission welcomed the activities undertaken jointly by the two programmes, decided to take steps to enhance cooperation with the Commission on Narcotic Drugs, and requested the Secretary-General to ensure continued coordination in that regard.

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Chapter I

MATTERS CALLING FOR ACTION BY THE ECONOMIC AND SOCIAL COUNCIL OR BROUGHT TO ITS ATTENTION

A. Draft resolutions

1. The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Organized transnational crime*

The Economic and Social Council,

Alarmed by the expansion and dimensions of organized transnational crime in all its forms and the increasing sophistication and diversification of the activities of organized criminal groups,

Alarmed also by the ability of organized criminal groups to transcend national frontiers, taking advantage of regional arrangements designed to foster free trade and economic and political cooperation and of the gaps in national legislation and international cooperation,

Deeply concerned about the capacity of organized criminal groups to expand their activities, including the use of violence, and to target the security and the economies of countries, in particular developing countries and countries in transition, thereby posing a grave threat to the stability of countries and the viability and further development of their economies,

Convinced of the urgent need for more effective action against organized transnational crime, to be coordinated at the global and regional levels,

Convinced also that such action represents an investment in the future for all societies,

Further convinced that technical assistance in the prevention of organized crime is indispensable and should be given high priority,

Recalling General Assembly resolutions 46/152 of 18 December 1991, 47/87 and 47/91 of 16 December 1992, and 48/102 and 48/103 of 20 December 1993,

Recalling also its resolutions 1992/22 of 30 July 1992 and 1993/29 of 27 July 1993,

1. Takes note of the report of the Secretary-General 1/ on the status of preparations for the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994;

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* For the discussion, see chap. II.

1/ E/CN.15/1994/4.

2. Also takes note of the discussion held on this topic by the Commission on Crime Prevention and Criminal Justice at its third session and of the document submitted to the Commission by the Government of Italy at that session, annexed to the present resolution, which contains elements useful for the identification of specific matters to be dealt with by the World Ministerial Conference on Organized Transnational Crime, and which is to be used as a basis for the substantive discussion of the objectives of the World Ministerial Conference;

3. Reiterates its request to all Member States to be represented at the World Ministerial Conference on Organized Transnational Crime at the highest possible level;

4. Commends the work done thus far by the Coordination Committee established by the Government of Italy in preparation for the World Ministerial Conference, and recommends that its efforts be continued and intensified to ensure, in close cooperation with the Crime Prevention and Criminal Justice Branch of the Secretariat, the finalization of all the necessary preparations;

5. Requests the Secretary-General to submit to the World Ministerial Conference background documents on each of its objectives, listed in paragraph 1 of Economic and Social Council resolution 1993/29, seeking input from Member States, in order to assist the World Ministerial Conference in its deliberations;

6. Recommends that the World Ministerial Conference take into consideration, inter alia, the conclusions and recommendations of the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, organized by the Government of Italy, in cooperation with the International Scientific and Professional Advisory Council and under the auspices of the Crime Prevention and Criminal Justice Branch, to be held at Courmayeur, Italy, from 17 to 21 June 1994, pursuant to Economic and Social Council resolution 1993/30 of 27 July 1993;

7. Requests the Secretary-General, within the overall existing resources of the United Nations, to continue collecting, analysing and disseminating information on the incidence, expansion and effects of organized transnational crime;

8. Also requests the Secretary-General, within the overall existing resources of the United Nations, to continue collecting, as appropriate, the provisions of national legislation on the prevention and control of organized transnational crime, as well as on seizure, forfeiture and control of the proceeds of crime, money-laundering, monitoring of large-scale cash transactions and other measures, taking into account the work done by other intergovernmental organizations, and to make them available to Member States desiring to enact or further develop legislation in those areas, at their request;

9. Calls upon Member States to extend their full cooperation to the Secretary-General in performing the task described in paragraph 8 above and to respond promptly to his requests for information on those matters;

10. Requests the Secretary-General to provide, within the overall existing resources of the United Nations, upon request, advisory services and practical assistance to Member States wishing to adopt legislation or amendments or other measures, and to upgrade the skills of their criminal justice personnel, in order to prevent and control organized transnational crime;

11. Also requests the Secretary-General, within the overall existing resources of the United Nations, to organize and conduct regional workshops and training programmes to deal with specific aspects of organized transnational crime, in accordance with the specific needs of Member States;

12. Requests the Commission on Crime Prevention and Criminal Justice to act as focal point in order to facilitate coordination of efforts and relevant activities of other entities of the United Nations system and to closely cooperate with other intergovernmental organizations to maximize the impact of efforts in the field;

13. Also requests the Commission to continue to accord high priority to the question of organized transnational crime;

14. Further requests the Commission to follow up appropriately the results of the World Ministerial Conference on Organized Transnational Crime.

Annex

DISCUSSION DOCUMENT ON THE WORLD MINISTERIAL CONFERENCE ON ORGANIZED TRANSNATIONAL CRIME

1. The objectives of the World Ministerial Conference on Organized Transnational Crime were defined by the Economic and Social Council in its resolution 1993/29 of 27 July 1993. They represent five areas on which the ministers attending the Conference will debate and make decisions.

2. Taking into consideration the five areas and the political nature of the Conference, it should not only embody the political will of nations to fight organized transnational crime with firmness, but also highlight the fundamental principles of national initiatives and those upon which international cooperation should be based.

3. It is common knowledge that experience in relation to organized crime is characterized by both the extreme seriousness of the phenomenon and by the strong reaction shown by the authorities.

4. In recent years, the fight against organized crime has, in a number of countries, paved the way for the introduction of strict and effective legislative measures and for the organization of new operational instruments that have allowed the authorities to react, often successfully, against the phenomenon, limiting its potential damage to society and individuals.

5. However, through direct experience, especially in the use of the instruments offered by the criminal justice system, Governments have become aware that for national action to be effective there needs to be cooperation from all nations. Governments have also come to understand that organized crime is, due to its nature, a pervasive phenomenon. Therefore, the international community should find ways to cooperate, not only in controlling current illicit behaviour, but also in preventing the expansion of the phenomenon in new areas where defence mechanisms against the spread of such criminal activities are weak.

6. The necessity for international cooperation is always accompanied by a common concern and by general expressions of political will. Global action does

not always follow, however, and sometimes mutual assistance is not even possible in individual cases.

7. It is believed that these difficulties are the result of the great differences that still exist among countries in their understanding and evaluation of the phenomenon and, consequently, in their choice of policies to fight organized crime, as well as the result of the different degree of development of laws and regulations and legislative and organizational measures applied in each country.

8. Therefore, it is hoped that the Conference will contribute towards the creation of a common perception of organized crime within the international community and that it will lead to a generally agreed essential concept of the phenomenon, through which it will be possible to lay down proposals for more homogeneous national measures that will also make cooperation more effective.

9. In order to reach this goal, it should be stressed that, according to current experience, positive results can be achieved in the fight against organized crime not by focusing on one or another type of "definite" crimes committed by criminal groups, for example, drug trafficking, extortion, illegal gambling or trafficking in arms. It is important to use normative and organizational measures that can be applied to every aspect of criminal activity. In other words, there is a need to devise strategies related to the structural characteristics of organized crime which, besides the essential element of having more individuals organized in a group, include the goal of profit-making; the use of violence, intimidation and corruption; the hierarchical link or personal relationships that make it possible to closely control the activities of the group; the economic control of whole territories; the laundering of illicit profits in order not only to organize other criminal activities but also to set up legal businesses (with the consequent effect of corrupting them); the great potential of expansion beyond national boundaries; and the tendency to organize international operations together with other groups of different nationalities.

10. In this perspective, the Conference and the subsequent actions of the United Nations in promoting crime prevention and criminal justice should take into account the above-mentioned elements.

11. The analysis of the above-mentioned structural characteristics highlights the importance of adopting a series of measures against organized crime, both in the area of substantial and procedural penal law and in the area of international cooperation. It is hoped that the issues presented below will receive particular attention from the Governments and competent international organizations attending the Conference.

12. As far as substantive penal law is concerned, particular attention should be paid to the "criminalization" of participation in a criminal organization. The existence of specific crimes such as the "association of criminals" of French law or the "criminal association" or "Mafia association" of the Italian penal code or the various types of "conspiracy" of other criminal laws, should be used as an example. In Italy, for example, the "association" crimes have played a key role in criminal justice intervention against organized crime.

13. The use in all nations of similar, if not identical, types of incrimination for members of criminal organizations can help reduce the spread of organized crime and will facilitate legal cooperation, especially when it is based on the principle of "dual criminality".

14. The accumulation of large amounts of capital originating from criminal activities, not only from drug trafficking, and the resulting need of criminal organizations to launder those profits and invest them in legal businesses leads, as far as the substantive penal law is concerned, to the necessity of criminalizing such acts in relation to any kind of profit-making criminal activity. Particular attention should also be given to correct and well-defined incrimination of economic crimes.

15. For the same reason, it is important not to neglect preventive measures, ensuring a clear definition of the position of the owners of companies and accurate control of acquisitions and transfers; a high ethical standard in public administration and financial institutions; and cooperation between the authorities in charge of regulating financial and economic sectors, and those in charge of applying the penal code.

16. The fight against organized crime is based on strategies aimed at defeating the economic power of criminal organizations, which should also involve criminal law measures, in particular in the field of appropriate sanctioning and sentencing.

17. Measures such as the confiscation of illicit proceeds are of great importance to the achievement of those goals. Such measures can prevent the accumulation of illegal profits and make a great contribution towards the destabilization of criminal groups by targeting their resources.

18. It should be noted that in some countries - under specific conditions and always through judicial proceedings - it is possible to confiscate illegal profits even without a guilty verdict, or to confiscate sums that are definitely higher than those relating to the crime for which judgement has been passed. This possibility should be taken into consideration when discussing the enactment of new legislation relating to confiscation or the modification of existing legislation.

19. As far as police action and criminal proceedings are concerned, it should be pointed out that in criminal proceedings related to organized crime offences, the investigative aspect and identifying and securing of evidence present particular difficulties. Three main issues should be stressed: the increase of "intelligence"; the introduction and development of investigative methods that make it possible to "penetrate" criminal organizations; and investigative methods and legal measures aimed at preserving illicit profits, thus facilitating their confiscation.

20. As far as intelligence is concerned, it is clear that organized crime is a phenomenon that needs to be studied and understood more than other less structured crimes. It is crucial to obtain more information on the general organization of the criminal groups, on the types of activities on which those groups thrive, on the interrelationships of the various groups, on the means that they commonly use to sustain themselves and on anything else that provides a better view of this very complex combination of activities, people and means.

21. Specialized investigative units should be created to fulfil the investigative requirements. Measures should also be adopted in order to facilitate the use of means of information-gathering, such as the interception of communications, controlled delivery, and testimony of cooperating witnesses.

22. In promoting the use of these measures for gathering intelligence and collecting evidence, it is necessary to keep in mind the fact that the limits of

the law must not be exceeded. In some countries, those measures have proved to be of the utmost importance for the successful outcome of investigations.

23. The Conference should also discuss the issue of financial investigations. Three main requirements should be emphasized: the development of a technical understanding of the financial operations involved, by the relevant police departments and among prosecutors (and as far as trials are concerned, also among judges); the need to eliminate obstacles created by the law during investigations in relation to the operations of financial institutions; and the need to assign an active role to financial institutions (and, when appropriate, to other economic entities, which are often used in money-laundering) in the first steps of an investigation of suspicious transactions.

24. It should be noted that the strategy of "penetrating" criminal organizations, both for intelligence purposes and for purposes related to gathering of evidence, strongly depends on the testimony of members of criminal organizations. This should lead to the introduction of measures that can encourage such testimony, provide the cooperating witnesses and their families with the necessary protection, through adequate protection programmes, and - within the limits imposed by national laws - provide "rewards" in the form of penalty reductions for witnesses who are also charged with criminal offences.

25. One final important issue that should be discussed by the Conference is international cooperation during investigations and judicial proceedings. The analysis and consideration by the Conference should be developed along four fronts. Because of the importance of bilateral and multilateral assistance (with particular reference to extradition and mutual assistance in investigation and gathering of evidence), the lack of relevant agreements critically hinders the development of effective cooperation.

26. First, the Conference should take into account this problem and should promote the development of international agreements in the above-mentioned areas. More widespread promotion of "model" treaties adopted by the United Nations could help foster the rapid conclusion of such agreements.

27. The second front is improving the practical application of existing agreements. This could be achieved by informal arrangements and operational instruments - such as the publication and exchange of manuals for a better understanding of national procedures, the creation of "central national authorities" in charge of interstate affairs and specialized in solving particular problems raised by them; the creation of "contact points", in the relevant public offices, which will facilitate the proceedings.

28. The third front - perhaps the most difficult one - is devising adequate ad hoc measures of international cooperation that are aimed specifically at fighting organized crime and are more specific than those generally applicable to other crimes. Such measures should take into account the above-mentioned structural characteristics of organized crime and could benefit from a comparative study between what is described in the "model treaties", and frequently contained in existing agreements, and the provisions of more specialized and advanced conventions concerning serious criminal offences such as those in United Nations conventions on drug trafficking.

29. The fourth front is the international exchange of intelligence, also as a preventive measure. Among other things, a study of the most adequate forms of international assistance among "non-police administrative bodies" could be useful; such bodies would include, for example, the administrative bodies of

financial sectors that are competent in such areas as the analysis of financial flows and/or in the investigation of suspicious transactions.

30. The Conference should be concerned with the general problem of researching and passing on information, at the international level, on organized crime and on legislative and organizational regulations set up in individual countries. The role of the United Nations in this matter should be of great importance and the Conference should outline the tasks of the Commission and of the programme in this area. Moreover, this activity could be the foundation for the development of technical cooperation with countries that are in need of such assistance.

31. For effective international cooperation against organized crime, there is also a need to initiate activities involving strengthened technical cooperation, in which the more developed countries will have to show their strong commitment by investing the necessary resources. No action at the international level can achieve positive results if developing countries are not given an opportunity to create and improve an appropriate judicial system and to use proper tools for investigations, evaluations, intervention, interchange, incrimination and the carrying out of penalties.

32. Awareness of the seriousness of this international challenge can be encouraged by the systematic exchange of experiences, by the proper training of police and judicial staff and by the use of effective countermeasures. All this awareness will positively affect the operational plans and legislative reforms that will have to be gradually carried out in order to fight organized crime at the international level.

33. This prospect becomes more evident when considering the fact that criminal organizations are inclined to expand their illegal activities in developing regions as long as more effective countermeasures are adopted elsewhere. In such a situation, organized crime will concentrate on those countries where the financial and economic sectors show lower resistance to criminal infiltration.

34. It is, therefore, of fundamental importance that all existing technical, bilateral and multilateral activities involving technical cooperation be well focused and that the means for coordinating such activities be studied in order to avoid overlapping.

35. A final aspect that should be given serious consideration is proper economic compensation for the victims of organized crime. This compensation should be charged to the person responsible for the crimes committed. Consideration should be given to the creation of a special fund to compensate victims when compensation cannot be charged to the person responsible; such a fund might be partially subsidized by confiscated capital.

36. Discussions on the possible close approximation of national legislation with regard to the criminalization of organized crime and related criminal justice measures should be actively pursued.

37. As to technical cooperation, the three following areas of intervention appear to be of particular interest:

(a) Assistance should be provided in drafting legislation in those countries that still do not have a penal system suitable for fighting organized crime;

(b) Special training courses for all personnel involved in the field should be planned and carried out. Specific training should be provided for police staff, investigating judges and magistrates, and all those officials who provide technical cooperation to investigative bodies;

(c) Technical assistance should be provided to those high-risk areas through the gathering, analysis and exchange of data on criminal organizations and related activities.

38. In relation to the question of which instruments are proper for the development of future action, it is believed that bilateral cooperation, especially through agreements between a growing but still limited number of countries, has highlighted inadequacies in the fight against organized crime. Through new agreements, new judicial measures and instruments could be tested. These could involve the whole international community.

39. It is the Conference that will identify the action and decisions to be carried out within the programme of work of the Commission. The Economic and Social Council, in its resolution 1993/29, stated that one of the objectives of the Conference would be to consider the feasibility of elaborating international instruments, including conventions, against organized transnational crime.

40. It is believed that decisions will be taken only when more precise ministerial choices concerning substantial matters become clear. This could lead to the elaboration of binding instruments, as indicated in Council resolution 1993/29, or the opportunity to establish tools other than binding legal agreements, such as models of technical agreements; manuals for police and judicial cooperation; publications or other communication methods, as well as computerized databases for storing and updating information on organized crime and on legal and practical countermeasures adopted in different countries.

DRAFT RESOLUTION II

Control of the proceeds of crime*

The Economic and Social Council,

Alarmed by the scope and growth of proceeds of crime and their impact on national economies,

Convinced that international action against organized transnational crime can be effective only if it devotes particular attention to prevention and control of the laundering of the proceeds of crime and the control of such proceeds,

Convinced also that effective prevention and control of the laundering of the proceeds of crime and the control of such proceeds require concerted global action to curb the capacity of criminal organizations to transfer the proceeds of their activities across national frontiers by taking advantage of gaps in international cooperation,

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* For the discussion see chap. II.

Convinced further that criminal organizations engage in a multitude of criminal activities generating illicit profits and that international action aimed at controlling the proceeds of crime can therefore be effective only if it takes into account all aspects of the problem,

Deeply concerned about the ability of organized criminal groups to infiltrate the national economies of countries in transition and to use them for the investment of their illicit proceeds,

Recalling its resolution 1993/30 of 27 July 1993 and General Assembly resolution 48/103 of 20 December 1993,

Recalling also the recommendations contained in the Global Programme of Action adopted by the General Assembly at its seventeenth special session, 2/ on measures to be taken against the effects of money derived from, used in or intended for use in illicit drug trafficking, illegal financial flows and illegal use of the banking system,

Welcoming Commission on Narcotic Drugs resolution 5 (XXXVII) of 21 April 1994, 3/

1. Expresses its appreciation to the Government of Italy and to the International Scientific and Professional Advisory Council for organizing the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, held at Courmayeur, Italy, from 17 to 21 June 1994;

2. Recommends that the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994, should take into account the conclusions and recommendations of the International Conference;

3. Notes with appreciation the efforts already undertaken by the United Nations International Drug Control Programme, in cooperation with the Financial Action Task Force established by the heads of State or Government of the seven major industrialized countries and the President of the Commission of the European Communities, as well as the Council of Europe, the European Community and the Inter-American Drug Abuse Control Commission of the Organization of American States;

4. Requests the Secretary-General to establish and maintain close cooperation with Member States, intergovernmental organizations and other entities active in the field of controlling the proceeds of crime, including the regular exchange of information, and calls upon those entities to extend their full support to the United Nations crime prevention and criminal justice programme and its relevant activities;

5. Also requests the Secretary-General, taking into account the work already carried out by Member States and intergovernmental organizations, to cooperate with them in disseminating principles and issues that should be addressed in substantive and procedural legislation on prevention and control of the laundering of the proceeds of crime and the control of such proceeds, for

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2/ General Assembly resolution S-17/2, annex.

3/ See Official Records of the Economic and Social Council, 1994, Supplement No. 10 (E/1994/30).

incorporation in national penal and procedural codes by Member States wishing to do so;

6. Further requests the Secretary-General, within overall existing resources, to organize, or to facilitate the organization of, in coordination with Member States and intergovernmental organizations, regional training seminars, including such seminars for countries in transition, designed to provide criminal justice personnel with the capacity to detect, investigate, prosecute and adjudicate cases involving the laundering and control of the proceeds of crime;

7. Invites Member States to avail themselves of the advisory services and practical assistance available through the United Nations crime prevention and criminal justice programme;

8. Requests the Secretary-General, in cooperation with interested Member States, intergovernmental and non-governmental organizations, financial and academic institutions, and individual experts of recognized calibre, to assist Member States in elaborating model curricula and manuals for higher legal education and of designing special courses in academic institutions on various aspects of prevention and control of the laundering of the proceeds of crime and the control of such proceeds;

9. Requests the Commission on Crime Prevention and Criminal Justice to continue its consideration of prevention and control of the laundering of the proceeds of crime and the control of such proceeds;

10. Requests the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its fifth session on international, regional and other initiatives for prevention and control of the laundering of the proceeds of crime and the control of such proceeds, including recommendations for further concerted action at the global level, and on the implementation of the present resolution and of Economic and Social Council resolution 1993/30.

DRAFT RESOLUTION III

Criminal justice action to combat the organized smuggling of illegal migrants across national boundaries*

The Economic and Social Council,

Recalling that the General Assembly, in its resolution 48/102 of 20 December 1993, requested the Commission on Crime Prevention and Criminal Justice at its third session, to be held in 1994, to consider giving special attention to the question of the smuggling of aliens in order to encourage international cooperation to address that problem within the framework of its mandate,

Concerned about the increasing activities of transnational criminal organizations that profit illicitly by smuggling humans and preying on the dignity and lives of migrants,

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* For the discussion, see chap. II.

Concentrating its attention on crime prevention and criminal justice, in particular the activities of those who organize and facilitate the smuggling of illegal migrants,

Recognizing that organized international criminal groups are becoming increasingly active in smuggling individuals across national boundaries and that they often convince individuals to migrate illegally by various means for enormous profits that are frequently used to finance numerous other criminal activities, thus bringing great harm to the States concerned,

Aware that such activities endanger the lives of the individual migrants involved and entail severe costs for the international community, particularly for those States that have been called upon to rescue and to provide medical care, food, housing and transportation for such individuals,

Acknowledging that socio-economic factors influence the problem of illegal migrant smuggling and also contribute to the complexity of present international migration,

Noting that smugglers, particularly in the State of destination of the illegal migrants being smuggled, often force migrants into forms of debt bondage or servitude, commonly involving criminal activities, in order to pay for their passage,

Convinced of the need to provide humane treatment and to protect fully the human rights of migrants,

Recognizing that such illegal smuggling activity has high social and economic costs, and may contribute to official corruption, and burdens law enforcement agencies in all States where illegal migrants transit or are found,

Recalling the undertaking of States parties to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, done at Geneva on 7 September 1956, 4/ to take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the practice of debt bondage,

Reaffirming respect for the sovereignty and territorial integrity of all States, including their right to control immigration flows,

Concerned that the smuggling of illegal migrants undermines public confidence in policies and procedures for lawful immigration and for ensuring the protection of genuine refugees,

Noting that the smuggling of illegal migrants can involve criminal elements in many States, including the State or States where the smuggling scheme was planned, the State of nationality of the aliens, the State where the means of transport was prepared, the flag State of any vessels or aircraft that transport the aliens, States through which the aliens transit to their destination or in order to be repatriated, and the State of destination,

Noting that some States have enacted effective domestic legislation permitting seizure and forfeiture of all property, both real and personal, that is knowingly used in organized crime activities to smuggle illegal migrants, as

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4/ United Nations, Treaty Series, vol. 266, No. 3822, p. 3.

well as all property, both real and personal, that constitutes, or is derived from, the proceeds of the smuggling, illegal transport or harbouring of illegal migrants,

1. Condemns the practice of smuggling illegal migrants in violation of international standards and national law, and without regard for the safety, well-being and human rights of the migrants;

2. Recognizes that the smuggling of illegal migrants is a widespread international criminal activity frequently involving highly organized international syndicates that traffic in human cargo, without regard for the dangerous and inhumane conditions to which illegal migrants are subjected, and in flagrant violation of domestic laws and international standards;

3. Acknowledges the substantial role played by organized transnational crime in illegal migrant smuggling activities in many parts of the world;

4. Requests States to share information, coordinate law enforcement activities, and otherwise, if their law permits, cooperate in order to trace and arrest those who organize the smuggling of illegal migrants and to prevent the illegal transport by smugglers of third-country nationals through their territory;

5. Calls upon Member States and relevant specialized agencies and international organizations to take into account socio-economic factors and to cooperate at the bilateral and multilateral levels in addressing all aspects of the problem of the organized smuggling of illegal migrants;

6. Reaffirms the need to observe fully international and national law in dealing with the smuggling of illegal migrants, including the provision of humane treatment and strict observance of all human rights of migrants;

7. Emphasizes that international efforts to prevent the smuggling of illegal migrants should not inhibit legal migration or freedom of travel, or undercut the protection provided by international law to refugees;

8. Urges States to take prompt and effective steps to frustrate the objectives and activities of those who organize the smuggling of illegal migrants, thus protecting would-be migrants from exploitation and loss of life;

9. Calls upon all States to take effective and expeditious measures, such as the enactment or amendment if necessary of domestic criminal law, providing appropriate penalties to combat all aspects of organized crime activities constituting the smuggling of illegal migrants, including all elements of the organization of smuggling and transport of illegal migrants, such as the production or distribution of false travel documents, money laundering, systematic extortion and misuse of international commercial aviation and maritime transport, in violation of international standards;

10. Encourages Member States and relevant specialized agencies and intergovernmental organizations to respond promptly to the invitation of the General Assembly, contained in its resolution 48/102, to report to the Secretary-General on the measures they have taken to combat the smuggling of aliens, in sufficient time for their contributions to be included in his report to the General Assembly at its forty-ninth session;

11. Decides that the ever-growing problem of organized smuggling of illegal migrants requires the continuing scrutiny of the international community in general and should be considered by the Commission on Crime Prevention and Criminal Justice at its fourth session in the context of the broader problem of organized transnational crime.

DRAFT RESOLUTION IV

The role of criminal law in the protection of the environment*

The Economic and Social Council,

Recalling General Assembly resolution 45/121 of 14 December 1990 on the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Assembly welcomed the instruments and resolutions adopted by the Eighth Congress, 5/ including the resolution on the role of criminal law in the protection of nature and the environment,

Recalling also General Assembly resolution 46/152, of 18 December 1991, in the annex to which the Assembly called for the strengthening of regional and international cooperation in combating transnational crime,

Recalling its resolution 1993/28 of 27 July 1993 on the role of criminal law in the protection of the environment, in which it took note of the conclusions of the Seminar on the Policy of Criminal Law in the Protection of Nature and the Environment in a European Perspective, held at Lauchhammer, Germany, from 25 to 29 April 1992, annexed to that resolution,

Recalling also its resolution 1993/32 of 27 July 1993 on preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Council approved the provisional agenda for the Ninth Congress, including an item entitled "Action against national and transnational economic and organized crime, and the role of criminal law in the protection of the environment: national experiences and international cooperation", and endorsed the programme of work for the Ninth Congress, including the holding of six workshops, one of them on the topic "Environmental protection at the national and international levels: potentials and limits of criminal justice",

Recalling further the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, in which the World Conference recognized, inter alia, that illicit dumping of toxic and dangerous substances and wastes potentially constituted a serious threat to the human rights to life and health of everyone, 6/

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* For the discussion, see chap. II.

5/ See Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication Sales No. E.91.IV.2), chap. I, sect. C.2.

6/ Report of the World Conference on Human Rights, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III, para. 11.

Taking note of the recommendations of the regional preparatory meetings for the Ninth Congress relating to the protection of the environment through criminal law, 7/

Noting with appreciation the work on the topic "Environmental protection at the national and international levels: potentials and limits of criminal justice" being undertaken by the United Nations Interregional Crime and Justice Research Institute, in view of the workshop to be held on that topic at the Ninth Congress,

Recalling the report of the International Law Commission on the work of its forty-third session, in particular the draft Code of Crimes Against the Peace and Security of Mankind, article 26, on wilful and severe damage to the environment, 8/ and the draft articles on State responsibility, in particular article 19, on international crimes and international delicts, 9/

Noting the recommendation of the colloquium of the International Association of Penal Law held at Ottawa, Canada, in November 1992, to be considered for adoption by the fifteenth International Congress on Penal Law, to be held at Rio de Janeiro, Brazil, in 1994,

Noting with appreciation the work of the Ad Hoc Expert Group on More Effective Forms of International Cooperation against Transnational Crime, including Environmental Crime, held at Vienna from 7 to 10 December 1993,

Noting the report of the International Meeting of Experts on the Use of Criminal Sanctions in the Protection of the Environment, Internationally, Domestically and Regionally, held at Portland, Oregon, United States of America, from 19 to 23 March 1994, in particular the recommendations as to the terms of a possible convention on transnational offences against the environment; the possible draft domestic criminal statute addressing environmental issues; and the recommendations as to a possible structure and operation of a regional enforcement regime,

Convinced that the environmental situation in developed countries, as well as in developing countries, is the cause of increasingly serious concern about damage to the environment and its constituent elements, including water, soil, air, atmosphere, and the living species, including plants, animals and humans, and that it requires comprehensive and integrated approaches to the use of countermeasures, as well as preventive measures, at the national, regional and international levels,

1. Takes note of the recommendations concerning the role of criminal law in protecting the environment, made by the Ad Hoc Expert Group on More Effective Forms of International Cooperation against Transnational Crime, including Environmental Crime, held at Vienna from 7 to 10 December 1993, contained in the annex to the present resolution;

2. Requests that the report of the International Meeting of Experts on the Use of Criminal Sanctions in the Protection of the Environment,

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7/ See A/CONF.169/RPM.1/Rev.1 and Corr.1, 2, 3 and Corr.1, 4 and 5.

8/ See Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10), paras. 60-176.

9/ Ibid., paras. 302-322.

Internationally, Domestically and Regionally, held at Portland, Oregon, from 19 to 23 March 1994, be issued under the auspices of the United Nations and included, together with the report of the Ad Hoc Expert Group, in the documentation to be prepared for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

3. Requests the Secretary-General to take the conclusions of the Seminar on the Policy of Criminal Law in the Protection of Nature and the Environment in a European Perspective, held at Lauchhammer, Germany, from 25 to 29 April 1992, and the recommendations of the Ad Hoc Expert Group and of the International Meeting of Experts into consideration by developing further activities in the United Nations crime prevention and criminal justice programme;

4. Requests the United Nations Environment Programme and other organizations and bodies of the United Nations to take into account the present resolution in their deliberations concerning environmental protection, and to coordinate any relevant follow-up activities related to criminal law with the Commission on Crime Prevention and Criminal Justice;

5. Invites Member States and relevant bodies to continue their efforts to protect nature and the environment by developing laws and fostering legal and technical cooperation and, when developing criminal laws related to the protection of the environment, to consider the recommendations annexed to the present resolution.

Annex

RECOMMENDATIONS CONCERNING THE ROLE OF CRIMINAL LAW IN PROTECTING THE ENVIRONMENT

Member States should consider adopting the following recommendations concerning the role of criminal law in protecting the environment:

(a) Specific environmental legislation should be further developed on the basis of generally recognized principles, such as the "polluter pays" principle described in principle 16 and the "precautionary principle" described in principle 15 of the Rio Declaration on Environment and Development, adopted by the United Nations Conference on Environment and Development, 10/ giving due and balanced consideration to the need to protect the environment in other parts of the law, and in the context of improving political and social conditions for a responsible environmental policy;

(b) National and supranational authorities should be provided with a wide array of measures, remedies and sanctions, within their constitutional and legal frameworks and consistent with the fundamental principles of criminal law, in order to ensure compliance with environmental protection laws. They should include regulatory and licensing powers, incentives, administrative enforcement mechanisms, and punitive administrative, civil and criminal sanctions for impairing or endangering the environment. They should also include provisions for the forfeiture of profits and proceeds of crime, and of property used or employed in the commission of crime, such as vessels, vehicles, tools, equipment and buildings;

(c) Environmental criminal law should be aimed at promoting all the important components of the environment, including human beings and other living species. It should be directed, in particular, to the regulation, control and, where necessary, the complete prohibition of hazardous activities, including the establishment and operation of hazardous installations, and the illegal import, export, movement and disposal of hazardous materials and wastes;

(d) Substantive environmental criminal law should formulate at least certain core criminal offences. These core offences, which could be autonomous and independent of environmental regulatory laws, should include deliberate, reckless or negligent assaults on the environment that cause or create imminent risks of serious damage, harm or injury. In addition, criminal sanctions should be extended to deliberate, reckless or negligent violations of administrative rules where there is a likelihood of serious harm or danger to the environment. In developing such criminal offences, the field guide contained in the annex to the report by the United Nations Interregional Crime and Justice Research Institute and the Australian Institute of Criminology entitled Environmental Crime, Sanctioning Strategies and Sustainable Development 11/ should be taken into consideration;

10/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), Vol. I: Resolutions Adopted by the Conference, resolution 1, annex I.

11/ UNICRI 49.

(e) Subject to relevant international conventions, States should seriously consider enacting legislation prohibiting and sanctioning the export of products that have been banned from domestic use because of their deleterious impact on the environment and human health. Furthermore, Governments might consider the idea of banning the production and import of specific dangerous materials unless sufficient precautionary measures can be taken in respect of their use, treatment or disposal in their countries;

(f) Environmental crimes should cover intentional as well as reckless acts. When serious harm or actual danger of harm has been caused or created, however, negligent conduct should also be a crime if the persons responsible have significantly departed from the care and skill expected of them in the pursuit of their activities. In relatively minor cases, the imposition of fines, including administratively or judicially imposed non-criminal fines, and other non-custodial alternatives should be sufficient;

(g) Support should be given to the extension of the idea of imposing criminal or non-criminal fines or other measures on corporations in jurisdictions in which corporate criminal liability is not currently recognized in the legal systems;

(h) When using criminal law in environmental protection and creating new environmental crimes, consideration should be given to the need for law enforcement resources. Cooperation and coordination between criminal justice agencies and administrative agencies should be promoted, especially in jurisdictions where prosecutions are undertaken by criminal justice agencies. Furthermore, the judiciary should be sensitized to the seriousness of environmental offences and their consequences. Adequate staffing, special training and equipment should be provided to criminal justice agencies;

(i) In designing environmental law enforcement strategies, the legislator should consider in the framework of the constitution and the basic principles of the legal system, the rights of identifiable victims, victim assistance, facilitation of redress and monetary compensation, by removing legal barriers such as standing to sue, participation in proceedings and actions by citizens, including class action suits and citizen suits;

(j) In accordance with the various provisions of Agenda 21, 12/ adopted by the United Nations Conference on Environment and Development, such as those contained in chapters 8, 38 and 39 thereof, collaboration with non-governmental organizations in efforts aimed at the prevention of environmental crimes and the effective redress of damage to health and the environment should be encouraged. Examples of such efforts are the ombudsman-like functions and alternative methods for resolving disputes currently being developed by the Earth Council, a non-governmental organization referred to in chapter 38 of Agenda 21;

(k) On the basis of proposals put forward by the International Law Commission and the discussions at the United Nations Conference on Environment and Development, Member States should consider acknowledging the most serious forms of environmental crimes in an international convention;

12/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), Vol. I: Resolutions Adopted by the Conference, resolution 1, annex II.

(l) States should be encouraged to contribute to the codification work of the International Law Commission, in particular in further refining the concept of international crimes and delicts in article 19 of the draft articles on State responsibility 9/ and the concept of environmental crimes in article 26 of the draft Code of Crimes against the Peace and Security of Mankind; 8/

(m) Environmental offences should be framed in such a manner as to cover transboundary and transnational situations. On the one hand, the principle of ubiquity should be taken into consideration in the application of the principle of territoriality. On the other hand, the possibilities of prosecution of crimes of an extraterritorial nature might be extended by applying the principle of nationality, the principle of "extradite or prosecute" or, for example in cases of generally acknowledged international crimes, even the principle of universality;

(n) The use of legal instruments of international cooperation, such as those on extradition, mutual legal assistance and/or transfer of proceedings, should be supported and expanded. Environmental crimes of particular gravity or importance should become extraditable offences;

(o) In order to facilitate the prosecution of international crimes, in particular environmental crimes, States should consider the viability of establishing an international criminal court. Regional initiatives for the establishment of an international court for the prosecution of environmental crimes should be welcomed;

(p) States should consider, at least at the regional level, a minimum harmonization of environmental offences as a basis for international cooperation. In this respect, efforts to promote such harmonization, such as those of the Council of Europe and the Central American States, should be supported;

(q) International cooperation in the enforcement of environmental laws should be fostered by the provision of technical assistance bilaterally, multilaterally and through relevant international agencies, such as the Commission on Crime Prevention and Criminal Justice, the network of institutes of the United Nations crime prevention and criminal justice programme, and similar regional institutes. Further research in this area, including the nature and extent of polluting activities, sanctioning strategies and the appropriate mix of measures in particular situations, should be encouraged.

DRAFT RESOLUTION V

Strengthening the United Nations crime prevention and criminal justice programme*

The Economic and Social Council,

Recalling General Assembly resolution 46/152 of 18 December 1991, in which the Assembly requested the Secretary-General to give a high level of priority to the activities of the United Nations crime prevention and criminal justice programme,

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* For the discussion, see chap. III.

Recalling also its resolution 1992/22 of 30 July 1992, in section VI of which it accorded high priority to the United Nations crime prevention and criminal justice programme and requested an appropriate share of the overall resources of the United Nations for the programme,

Recalling further General Assembly resolutions 47/91 of 16 December 1992 and 48/103 of 20 December 1993, in which the Assembly requested the Secretary-General to upgrade, as a matter of urgency, the Crime Prevention and Criminal Justice Branch of the Secretariat into a division, as recommended in and in accordance with Assembly resolution 46/152 of 18 December 1991,

Recalling further its resolution 1993/34 of 27 July 1993, in section II of which it requested the Secretary-General to strengthen the institutional capacity of the United Nations crime prevention and criminal justice programme to enable it to elaborate, execute and evaluate operational activities and advisory services in its area of competence at the request of Member States,

Convinced that the Crime Prevention and Criminal Justice Branch can only be effective if it is provided with resources commensurate with its requirements and adequate to allow it to implement its mandates and to respond in a timely and efficient manner to the increasing requests of Member States for its services,

Deeply concerned about the delay in the implementation of General Assembly resolutions 46/152, 47/91, 48/103 and Council resolutions 1992/22, 1993/31 and 1993/34, with respect to the strengthening of the United Nations crime prevention and criminal justice programme and the upgrading of the Crime Prevention and Criminal Justice Branch into a division,

Taking note of the report of the Secretary-General 13/ on progress made in the implementation of Economic and Social Council resolutions 1992/22 and 1993/31,

1. Reaffirms the priority attached to the United Nations crime prevention and criminal justice programme, in accordance with General Assembly resolutions 46/152 and 47/91, and the need for the Assembly to devote to the programme an appropriate share of the existing resources of the United Nations;

2. Requests the Secretary-General, as a matter of urgency, to give effect to General Assembly resolutions 46/152, 47/91 and 48/103 and to Council resolutions 1992/22 and 1993/31 by strengthening the Crime Prevention and Criminal Justice Branch, by providing it with the resources required for the full implementation of its mandates and by establishing one post at the D-2 level for the United Nations crime prevention and criminal justice programme, if necessary by redeploying overall existing resources;

3. Recommends that the General Assembly keep under active review the staffing of the United Nations crime prevention and criminal justice programme;

4. Requests the Secretary-General to provide adequate funds to build and maintain the institutional capacity of the United Nations crime prevention and criminal justice programme to respond to requests of Member States for assistance in the field of crime prevention and criminal justice, if necessary through the reallocation of resources;

13/ E/1994/13.

5. Calls on Member States to contribute to the United Nations Crime Prevention and Criminal Justice Fund in order to enable the Crime Prevention and Criminal Justice Branch to provide technical assistance as requested by Member States;

6. Requests the Secretary-General to give consistent consideration to the importance of crime prevention and criminal justice activities in the context of peace-keeping operations and humanitarian assistance in armed conflicts;

7. Calls upon the bodies, specialized agencies, and other entities of the United Nations system, including the international financial institutions, in particular the United Nations Environment Programme, the United Nations International Drug Control Programme and the United Nations Development Programme, within the context of their mandates, to give appropriate consideration to the inclusion in their programme activities of crime prevention and criminal justice issues, including the establishment and maintenance of efficient criminal justice systems, as an essential component of all developmental efforts, and to utilize the expertise of the Crime Prevention and Criminal Justice Branch in the implementation of such activities;

8. Requests the Secretary-General to provide, within existing overall resources, support and training for the enhancement of the operational capacity of the United Nations crime prevention and criminal justice programme;

9. Requests the United Nations International Drug Control Programme to give favourable consideration to assisting the Crime Prevention and Criminal Justice Branch in the formulation and execution of technical assistance projects in areas of mutual concern;

10. Requests the Secretary-General to take appropriate action so that as of the fourth session of the Commission on Crime Prevention and Criminal Justice, the functions of the Secretary of the Commission may be exercised by the substantive secretariat at Vienna;

11. Requests the Secretary-General to ensure implementation of the present resolution in the context of his first performance report on the programme budget for the biennium 1994-1995, if necessary and as appropriate, through the use of the contingency fund, and to report thereon to the Commission on Crime Prevention and Criminal Justice at its fourth session.

DRAFT RESOLUTION VI

Proposal for the development of minimum rules for the administration of criminal justice*

The Economic and Social Council,

Noting that, in many parts of the world, there is an urgent need to modernize criminal justice to bring about greater transparency, immediacy, speed and fairness in criminal proceedings,

Recognizing that some written investigative procedures in some instances and in some countries have shown considerable judicial delays accompanied by prison overcrowding and a large number of persons detained without sentence, with frequent violations of fundamental freedoms and rights,

Recalling that the Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at San José, Costa Rica, from 7 to 11 March 1994, adopted a resolution, in section IV of which it recommended that Member States of the region, if they had not yet done so, study the introduction of oral criminal procedure, since that would make it possible to replace the written investigative and inquisitorial system, with its attendant delays, violation of the rights and fundamental guarantees of accused and convicted persons, and negation of the rights of victims, 14/

Recognizing the importance of ensuring a fair trial, in accordance with resolution 1993/26 of 25 August 1993 of the Subcommission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that no detainee or prisoner should be subjected to cruel, inhuman or degrading treatment,

Stressing that criminal proceedings should take place without undue delay, which will help in many countries to reduce the number of persons detained without sentence and to bring about prompt and more effective justice,

Aware of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 15/

Noting that persons in pre-trial detention should be kept separate from convicted prisoners, as provided for in the Standard Minimum Rules for the Treatment of Prisoners, 16/

Recalling the body of principles on arbitrary arrest and detention,

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* For the discussion, see chap. IV.

14/ A/CONF.169/RPM.4.

15/ General Assembly resolution 40/34, annex.

16/ See First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

Decides:

(a) To note the draft minimum rules for the administration of criminal justice, 17/ prepared by an expert commission that held four working sessions at Palma de Mallorca, Spain, from 23 to 25 November 1990, from 3 to 5 May 1991, from 5 to 8 September 1991 and from 14 to 16 February 1992, at the invitation of the advisory board to the Presidency of the Balearic Autonomous Community and with the cooperation of the Crime Prevention and Criminal Justice Branch of the Secretariat;

(b) To request the Secretary-General to seek comments from all Member States and from other appropriate sources on the desirability of preparing and adopting United Nations minimum rules in the field covered by the draft minimum rules prepared by the expert commission, and to submit a report to the Commission on Crime Prevention and Criminal Justice at its fourth session;

(c) To request the Commission on Crime Prevention and Criminal Justice, at its fourth session, to follow up this matter.

DRAFT RESOLUTION VII

United Nations standards and norms in crime prevention and criminal justice*

The Economic and Social Council,

Bearing in mind General Assembly resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme,

Recalling General Assembly resolution 48/103 of 20 December 1993 on crime prevention and criminal justice, and General Assembly resolution 48/137 of 20 December 1993 on human rights in the administration of justice,

Recalling also its resolution 1992/22, section VII, of 30 July 1992, in which it decided that the Commission on Crime Prevention and Criminal Justice should include in its agenda a standing item on existing United Nations standards and norms in the field of crime prevention and criminal justice,

Recalling further its resolution 1993/34, section III, of 27 July 1993, in which it requested the Commission to establish, at its third session, an open-ended in-sessional working group,

Acknowledging with appreciation the Vienna Declaration and Programme of Action, 18/ adopted by the World Conference on Human Rights on 25 June 1993, in section II, paragraph 67, of which stated that it was important to give assistance to the strengthening of the rule of law and to the administration of justice,

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* For the discussion, see chap. IV.

17/ E/CN.15/1994/11.

18/ A/CONF.157/24 (Part I), chap. III.

Noting the conclusions and recommendations of the Meeting of Experts for the Evaluation of Implementation of United Nations Norms and Guidelines in Crime Prevention and Criminal Justice, held at Vienna from 14 to 16 October 1991, 19/

1. Reaffirms the important contribution that the use and application of United Nations standards and norms in crime prevention and criminal justice make to criminal justice systems;

2. Stresses the need for further coordination and concerted action in translating into practice United Nations standards and norms in crime prevention and criminal justice;

3. Invites Member States to ensure the widest possible dissemination of United Nations standards and norms in crime prevention and criminal justice;

4. Also invites Member States to strengthen the human and financial resources available to the Crime Prevention and Criminal Justice Branch of the Secretariat by, for example, contributing to the United Nations Crime Prevention and Criminal Justice Fund in order to enable the Branch to better assist States in conducting seminars, workshops, training programmes and other activities for promoting the use and application of standards and norms;

5. Endorses the questionnaires 20/ on the following United Nations standards and norms in crime prevention and criminal justice, submitted to the Commission on Crime Prevention and Criminal Justice at its third session:

(a) The Standard Minimum Rules for the Treatment of Prisoners; 21/

(b) The Code of Conduct for Law Enforcement Officials, 22/ together with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; 23/

(c) The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; 24/

(d) The Basic Principles on the Independence of the Judiciary; 25/

6. Invites Member States to reply to those questionnaires;

19/ E/CN.15/1992/4/Add.4.

20/ E/CN.15/1994/CRP.5-8.

21/ United Nations publication, Sales No. 1956.IV.4, annex I.A.

22/ General Assembly resolution 34/169, annex.

23/ United Nations publication, Sales No. E.91.IV.2, chap. I, sect. B.2, annex.

24/ General Assembly resolution 40/34, annex.

25/ United Nations publication, Sales No. E.86.IV.1, chap. I, sect. D.2, annex.

7. Also invites Member States, in replying to the questionnaires to provide their views and comments for an evaluation of the questionnaires;

8. Expresses its appreciation of the most valuable support of the Governments of China, France, the Russian Federation, Spain and United Kingdom of Great Britain and Northern Ireland in the publication of the Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice, currently available in English only, 26/ in the other official languages of the United Nations;

9. Requests the Commission on Crime Prevention and Criminal Justice to continue to give special attention to the use and application of United Nations standards and norms in crime prevention and criminal justice;

10. Requests the Commission to continue its consideration of the question at its fourth session by having the open-ended in-sessional working group discuss, inter alia, the role of the United Nations in promoting the use and application of standards and norms in crime prevention and criminal justice;

11. Emphasizes the importance of cooperation in the area of crime prevention and criminal justice with the interregional and regional institutes for the prevention of crime and the treatment of offenders and with intergovernmental organizations in that field;

12. Reaffirms the important role of non-governmental organizations in contributing to the effective use and application of United Nations standards and norms in crime prevention and criminal justice;

13. Invites the Coordinator of the International Year of the Family to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on activities related to crime prevention and criminal justice undertaken in observance of the Year;

14. Requests the Secretary-General to promote the use and application of United Nations standards and norms in crime prevention and criminal justice as an important contribution to effective criminal justice systems:

(a) Through advisory services and the technical cooperation programme, including training programmes and fellowships, with a view to strengthening further joint activities, including those with other United Nations entities, institutes and non-governmental organizations;

(b) By providing assistance to Member States, especially those in transition, in reforming their law enforcement, judicial and penal systems;

(c) By continuing cooperative training courses in order to assist Member States, at their request, with the use and application of United Nations standards and norms in crime prevention and criminal justice, especially by organizing seminars for the training of trainers;

(d) By continuing the development of manuals and other forms of guidance for law enforcement officials and criminal justice personnel on the use and application of United Nations standards and norms in crime prevention and criminal justice;

26/ United Nations publication, Sales No. E.92.IV.1.

(e) By continuing to coordinate the activities of the Crime Prevention and Criminal Justice Branch and the Centre for Human Rights of the Secretariat and other relevant United Nations entities related to the use and application of standards and norms so as to heighten their efficacy and avoid overlapping in the implementation of their programmes;

(f) By ensuring the participation of members of the Crime Prevention and Criminal Justice Branch in the discussion of the relevant issues at the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities;

15. Also requests the Secretary-General to submit to the Commission on Crime Prevention and Criminal Justice at its fifth session, in 1996, a report on the replies to the questionnaires on the use and application of the United Nations standards and norms listed in paragraph 5 above;

16. Further requests the Secretary-General:

(a) To ensure the widest possible dissemination, within existing resources, of the Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice;

(b) To publish Strategies for Confronting Domestic Violence: A Resource Manual, 27/ which is currently available in English only, in the other five official languages of the United Nations, subject to the availability of budgetary or extrabudgetary funds.

DRAFT RESOLUTION VIII

Preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*

The Economic and Social Council,

Recalling General Assembly resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme,

Recalling also its resolutions 1992/24 of 30 July 1992 and 1993/32 of 27 July 1993 on preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Acknowledging the new role of the United Nations congresses on the prevention of crime and the treatment of offenders as a consultative body of the programme, as stipulated in paragraph 29 of the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to General Assembly resolution 46/152,

Emphasizing that fulfilment of that role requires that the debate and conclusions of the congresses be specifically focused, which can be achieved only through proper and timely preparations on the part of Member States, the Secretariat and other participants, for example through implementation, from the

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* For the discussion, see chap. V.

27/ ST/CSDHA/20.

outset, of the new rules of procedure for the congresses, thus allowing Member States sufficient time in advance of the Congress to review draft resolutions all six official languages of the United Nations,

Recalling that, in its resolution 1993/32, it endorsed the programme of work for the Ninth Congress, including the holding of six demonstration and research workshops, and invited Member States, non-governmental organizations and other relevant entities to support financially, organizationally and technically the preparations for the workshops,

Recognizing the important contribution made to the preparations for the Ninth Congress by the five regional preparatory meetings for the Ninth Congress, as reflected in the reports of those meetings, 28/

Taking note of the initial offer of the Islamic Republic of Iran to act a host for the Ninth Congress, which was later withdrawn in favour of an African country,

Welcoming the agreement reached between the Governments of Egypt and Tunisia with respect to the venue of the Congress,

I

ORGANIZATIONAL MATTERS

1. Accepts with gratitude the generous invitation of the Government of Tunisia to act as host for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held from 24 April to 5 May 199 with pre-Congress consultations on 22 and 23 April 1995;

2. Reaffirms the organizational arrangements stipulated in its resolutions 1992/24 and 1993/32;

3. Invites Member States to actively participate in the Ninth Congress with a view to fully reflecting regional concerns, to start preparations for finalization of national reports, and to include in their delegations senior officials, legislators, practitioners, policy makers and experts from the various sectors of the criminal justice system, including persons with expert and experience in the subject areas of the workshops, including development a

4. Takes note with appreciation of the reports of the five regional preparatory meetings for the Ninth Congress, 28/ and invites Member States an other entities involved, in their preparations for and their discussions at t Ninth Congress, to take into appropriate account the conclusions and recommendations contained in those reports;

5. Requests the Secretary-General to intensify public information activities on the Ninth Congress and the workshops;

6. Also requests the Secretary-General to facilitate the broader participation of developing countries, inter alia, by providing the necessary resources for the travel and per diem of delegations from the least developed countries in accordance with Economic and Social Council resolution 1993/32, within the limits of available resources, and by exploring the possibility of

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28/ A/CONF.169/RPM.1/Rev.1 and Corr.1, 2, 3 and Corr.1, 4 and 5.

obtaining contributions for this purpose from all sources available, including governmental, intergovernmental and the relevant non-governmental donors;

7. Further requests the Secretary-General to continue cooperating with the relevant intergovernmental, non-governmental and professional organizations in the proper planning and conduct of ancillary meetings on relevant issues;

8. Further requests the Secretary-General to appoint a Secretary-General of the Ninth Congress and an Executive Secretary of the Ninth Congress, in accordance with past practice, to perform their functions under the rules of procedure of the congresses;

9. Approves the documentation for the Ninth Congress, as proposed by the Secretary-General in his report on progress made in the preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 29/ taking into account relevant recommendations made by the Council in the present resolution;

10. Requests the organizers of the workshops to seek to ensure that there is sufficient time for thorough and fruitful discussion, by fostering the exchange of information and experiences on closely specified issues of direct concern to policy makers and practitioners, for example in the form of panel discussions of case-studies, in order to identify the priorities for action, to examine possible model projects, to assess the factors behind the success or failure of such projects, to examine ways in which successful projects could be replicated and modified for implementation within the framework of other criminal justice systems, and to examine methods of ensuring proper follow-up to the workshops, including the organization of regional and interregional training courses on the workshop topics;

11. Requests the Secretary-General to invite Member States to consultations, at no cost to the United Nations, not later than at the beginning of the fourth quarter of 1994, on possible technical cooperation projects to be considered during the workshops, with a view to announcing their commitment to sponsoring such projects after the Ninth Congress, and invites relevant bodies to participate in those consultations;

12. Invites Member States and all entities involved to prepare video programmes, documents and other presentations relevant to the subject areas of the workshops, in consultation with the organizers of the workshops, in order to increase the practical orientation of the discussions and to promote the exchange of experiences and information, and to consider, inter alia, holding various national competitions, to the extent that resources and other circumstances permit, as follows:

(a) An urban planning and architectural design competition, aimed at preventing crime and increasing safety;

(b) A competition on crime prevention programmes planned and implemented by youth;

(c) A mass media competition on crime prevention material, including films, advertisements, pamphlets and television and radio programmes, the winners or outstanding projects to be presented at the Ninth Congress at the appropriate workshops or at the national kiosks;

29/ E/CN.15/1994/8, paras. 17 and 18.

13. Calls upon Member States, government development agencies and all other entities involved to assist other States, upon request, in preparing thei contributions to the workshops by cooperating in the preparation of needs-assessment statements on proposed technical assistance projects, and encourages regional and subregional initiatives for preparing contributions to the workshops, in order to present common problems and their solutions in a given geographical area, for example in cities of the same region or continent;

14. Invites Member States and all entities involved to consult together i order to designate a main counterpart for each workshop in order to coordinate the different contributions and to facilitate practical organization;

15. Invites Member States, intergovernmental and non-governmental organizations and all other entities involved to announce their contribution t the workshops not later than three months before the convening of the Ninth Congress, in order to properly set up each workshop both substantively and organizationally;

16. Recommends that, notwithstanding the focus of the workshops on model projects and the development of technical cooperation, a brief oral report on the discussion of each workshop be made before the committee of the whole to which that particular topic has been assigned;

17. Recommends that an introductory session on technical cooperation projects be held at the Ninth Congress prior to the convening of the workshops

18. Requests the Secretary-General to prepare for the forty-ninth sessio of the General Assembly a statement of the financial implications of the preparations for and holding of the workshops at the Ninth Congress.

II

TOPIC 1. INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

1. Invites the Ninth Congress to consider further ways of developing, promoting and refining forms of technical cooperation, the development of strategic alliances in the provision of advisory services and training and research programmes, the promotion of contributions in kind and the developmen of working manuals, by serving as a forum in which the need for technical assistance, especially in developing countries and in countries in transition, and the capacity of the donor community may meet, and by considering ways in which the United Nations Criminal Justice Information Network could be used in order to assist Member States in coordinating their bilateral and multilateral cooperation projects;

2. Also invites the Ninth Congress to play an active role in the identification and the development of effective common strategies for crime prevention and criminal justice;

3. Further invites the Ninth Congress to consider practical methods for promoting, where necessary, the exchange of experiences and information on international cooperation, including the establishment and development of depositories of information on national legislation, statistics and other data examining the conditions that would facilitate the establishment of a mechanis

to ensure coherence in international assistance efforts, both bilaterally and multilaterally;

4. Recommends that the workshop entitled "Extradition and international cooperation: exchange of national experiences and implementation of extradition principles in national legislation" should consider specific problems in the practical implementation of extradition treaties and related forms of international cooperation, and methods of overcoming those problems, with due regard to the necessity for observing democratic structures and control, such as the expansion and updating of the network of bilateral and multilateral instruments, the opening of regional conventions to States from outside the region, and the organization of training courses and international internships for the officials involved;

5. Also recommends that the workshop consider how, in practical terms, extradition and other international cooperation should function, general impediments to extradition, and how to balance extradition obligations against reasonable grounds for denial, including the removal of the political offence exception in the context of extradition and mutual assistance, and review existing bilateral and multilateral treaties involving extradition, including the Model Treaty on Extradition, 30/ if necessary, in the light of recent developments.

III

TOPIC 2. ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

1. Invites the Ninth Congress to seek to identify and address new forms of national and transnational economic and organized crime, including forms arising as a result of the use of new technology, particularly as related to economic crime, including computer-related crime, and including also the organization of illicit migration and international traffic in minors and the possible emergence in time of organized illicit traffic in human body parts;

2. Also invites the Ninth Congress to further develop measures for the prevention and control of the above-mentioned forms of crime, including the following:

(a) Consideration of the conclusions of the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, held at Courmayeur, Italy, from 17 to 21 June 1994;

(b) Consideration of the conclusions of the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994;

(c) Consideration of the report and conclusions of the Ad Hoc Expert Group on More Effective Forms of International Cooperation against Transnational Crime, including Environmental Crime, held at Vienna from 7 to

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30/ General Assembly resolution 45/116, annex.

10 December 1993, 31/ and of the International Meeting of Experts on the Use of Criminal Sanctions in the Protection of the Environment, Internationally, Domestically and Regionally, held at Portland, Oregon, United States of America, from 19 to 23 March 1994;

(d) The strengthening and possible creation of special departments within police agencies, where necessary, to deal with organized crime and the establishment of relationships between special departments through an international communications network, including the use of liaison officers and contact officers;

(e) The establishment of mechanisms for the creation and further development, as necessary, of a standard framework for the international exchange of key information on organized crime, as well as the promotion of quick and flexible reactions to organized crime through concerted bilateral and multilateral police countermeasures based on international arrangements;

3. Further invites the Ninth Congress to consider in this connection crimes of terrorism, which constitute one of the most dangerous forms of crime, as well as their interrelationship with organized crime, and ways of enhancing regional and international cooperation in preventing and combating these crimes effectively;

4. Recommends, bearing in mind treaties in force, that the workshop entitled "Environmental protection at the national and international levels, potential and limits of criminal justice" consider the range of internationally recognized environmental offences, jurisdictional questions where environmental offences have transboundary effects, the development of a manual for practitioners, improved methods for exchanging evidence, and standardization of the methods of sampling and examination;

5. Also invites the Ninth Congress to consider the preparation and enforcement of law in respect of criminal conduct relating to chemical precursors and other chemical substances used for the illicit production of drugs;

6. Also recommends, bearing in mind treaties in force, that the workshop on environmental protection at the national and international levels consider the growing phenomenon of illicit waste dumping and the international illicit traffic in plant and animal species and in hazardous radioactive materials; the improvement of options for prosecuting transboundary criminal offences against the environment; and a mechanism and forum for developing further appropriate instruments and methods for the protection of the environment through criminal law, in coordination with other intergovernmental organizations.

31/ E/CN.15/1994/4/Add.2, annex.

IV

TOPIC 3. CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS

1. Invites the Ninth Congress to consider the potential of traditional and non-traditional mechanisms of justice and social control, such as processes of mediation, social reconciliation, restitution, compensation and non-custodial measures, in inspiring new strategies for preventing and controlling crime, reducing prison overcrowding and strengthening support for the criminal justice system;

2. Also invites the Ninth Congress to consider recent developments in the functioning of criminal justice and police systems, in particular the mobilization of law enforcement arrangements and new cooperative law enforcement arrangements, and to explore ways of improving the relationship between the police and the public, for example by ensuring an equal balance between the various sectors of the population in police forces and by developing community policing;

3. Further invites the Ninth Congress to consider such recent trends in criminal justice as the privatization of certain police and correctional functions, the excessive use of pre-trial custody, prison overcrowding, and the development of alternatives to incarceration;

4. Further invites the Ninth Congress to consider promotion of the international transfer of prisoners to their countries of origin and ways to speed up the corresponding procedures, with the consent of the offenders, in order to enable them to serve their sentences in circumstances that would promote their reintegration into their own societies;

5. Recommends that the workshop entitled "International cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of criminal justice information" and the ancillary symposium on computerization evaluate progress in computerization and the policy and management use of information achieved since the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, seeking to identify information systems that have proved their effectiveness; discuss the process of needs assessment; consider the conditions of successful computerization; and discuss a mechanism for identifying needs for the creation of statistical infrastructures where these are essential to improving national statistical reporting systems;

6. Also recommends that the workshop consider such issues as the compatibility of criminal statistics, support systems, computers as an investigative tool, and cost-effective ways of promoting the availability of data, assessment analysis capabilities and the exchange of information; and consider controls and legal measures to safeguard respect for privacy and to prevent data from being used for purposes incompatible with the International Covenant on Civil and Political Rights, 32/ bearing in mind data protection principles relating to personal privacy.

32/ General Assembly resolution 2200 A (XXI), annex.

V

TOPIC 4. CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIME IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

1. Invites the Ninth Congress to examine ways of promoting cooperation in crime prevention between criminal justice agencies, on the one hand, and, inter alia, other agencies, businesses, associations and the public, on the other hand, in order to develop successful crime prevention activities at the local, national and international levels, for example through the work of crime prevention councils;

2. Requests the Ninth Congress to consider violence against women and violence against children as separate questions under topic 4 and in the context of the workshop on the prevention of violent crime, and to propose recommendations on those questions to the Commission in respect of legislation, procedures, policies, practices, and technical cooperation and assistance, as well as of social services, education and the dissemination of information;

3. Further invites the Ninth Congress to take into account the proposed guidelines for cooperation and technical assistance in the field of urban crime prevention annexed to [draft resolution IX];

4. Recommends that the workshop on the mass media and crime prevention focus on seeking to enlist the support of the media in crime prevention initiatives and on identifying model projects;

5. Invites the workshop on the mass media and crime prevention to seek methods of sensitizing representatives of the mass media to the criminogenic effects of graphic portrayals of violence and sensationalism in the media, particularly on the young, and to consider the possible effects of sensational news coverage on the fairness of criminal trials, with due regard to the need to maintain the freedom of the press;

6. Recommends that the workshop on urban policy and crime prevention seek to identify priorities for crime prevention in urban areas and seek methods of sensitizing the authorities responsible for the different aspects of urban policy, including education, employment, alcohol and drug abuse policy, social services and urban zoning, to the importance of taking crime prevention aspects into consideration;

7. Recommends that the workshop on the prevention of violent crime identify and assess factors that are conducive to violent crime, including the ready availability of firearms; consider xenophobic violence and violence against vulnerable groups and violence in connection with armed conflicts; and identify methods of developing appropriate measures, including mediation and conflict resolution.

VI

PLENARY DISCUSSION ON CORRUPTION

1. Recommends that the Ninth Congress, during the plenary discussion on corruption, consider effective ways of coordinating, at the international level, all efforts to tackle corruption and any other form of malfeasance by public officials, particularly the illegal appropriation of public resources, the embezzlement of funds and the bribery of public officials, especially by organized criminal groups, taking into account successful experiences with detection, prevention and control in this respect;

2. Welcomes in this connection the generous offer of the Government of Spain to sponsor an international meeting of experts on corruption;

3. Recommends that the Ninth Congress, during the plenary discussion on corruption, consider the desirability of a code of conduct for public officials 33/ and that the Secretary-General seek comments from Member States and relevant entities, in order to assist the Commission in its consideration of the matter at its fourth session.

DRAFT RESOLUTION IX

Proposed guidelines for the prevention of urban crime*

The Economic and Social Council,

Recalling its resolutions 1979/20 of 9 May 1979, 1984/48 of 25 May 1984, 1990/24 of 24 May 1990 and 1993/27 of 27 July 1993, and General Assembly resolutions 45/121 of 14 December 1990 and 46/152 of 18 December 1991,

Recalling also its resolutions 1992/22 of 30 July 1992 and 1993/34 of 27 July 1993,

Recalling further the Milan Plan of Action, 34/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 35/ the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), 36/ the United Nations Standard Minimum

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* For the discussion, see chap. V.

33/ A draft code of conduct for public officials was contained in the discussion guide on demonstration and research workshops to be held at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.169/PM.1/Add.1, annex II).

34/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

35/ General Assembly resolution 40/33, annex.

36/ General Assembly resolution 45/112, annex.

Rules for Non-custodial Measures (The Tokyo Rules), 37/ the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 38/ and the resolution on the prevention of urban crime adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 39/

Aware of the universal character of urban crime,

Recognizing the usefulness of establishing guidelines to facilitate action on preventing urban crime,

Anxious to respond to the call by many States for technical cooperation programmes adapted to local conditions and needs,

1. Welcomes the proposed guidelines for cooperation and technical assistance in the field of urban crime prevention, contained in the annex to the present resolution, which were considered by the Commission on Crime Prevention and Criminal Justice at its third session and which are aimed at making urban crime prevention more effective;

2. Decides to transmit the proposed guidelines to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders for consideration under item 6 of its provisional agenda;

3. Requests the Commission on Crime Prevention and Criminal Justice to finalize the proposed guidelines at its fourth session, in the light of the comments made by the Ninth Congress for subsequent publication in the most appropriate form, for example in the Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice;

4. Encourages Member States to report to the Secretary-General on their experiences in elaborating and evaluating urban crime prevention projects, taking into account the proposed guidelines;

5. Calls upon the interregional, regional and associate institutes cooperating with the United Nations in the field of crime prevention and criminal justice and non-governmental organizations to report on their experiences in the field of urban crime prevention and to express their observations;

6. Requests the Commission on Crime Prevention and Criminal Justice to consider practical ways of ensuring follow-up on the use and application of the proposed guidelines;

7. Calls upon the United Nations Development Programme, other relevant United Nations organizations and bodies, and international financial institutions to give appropriate consideration to the inclusion in their assistance programmes of urban crime prevention projects.

37/ General Assembly resolution 45/110, annex.

38/ General Assembly resolution 40/34, annex.

39/ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.

Annex

PROPOSED GUIDELINES FOR COOPERATION AND TECHNICAL ASSISTANCE IN THE FIELD OF URBAN CRIME PREVENTION

A. Design and implementation of cooperation and assistance activities

1. Cooperation projects for urban crime prevention should take account of the principles set out below.

1. Local approach to problems

2. Urban crime is characterized by a multiplicity of factors and forms. A multi-agency approach and a coordinated response at the local level, in accordance with an integrated crime prevention action plan, will often be helpful. This should involve:

(a) A local diagnostic survey of crime phenomena, their characteristics, factors leading to them, the form they take and their extent;

(b) The identification of all the relevant actors that could take part in compiling the above-mentioned diagnostic survey in crime prevention as well as in the fight against crime, for example public institutions (national or local), local elected officials, the private sector (associations, enterprises), the voluntary sector, community representatives etc.;

(c) The setting up, wherever appropriate, of consultation mechanisms promoting closer liaison, the exchange of information, joint work and the design of a coherent strategy;

(d) The elaboration of possible solutions to these problems in the local context.

2. Integrated crime prevention action plan

3. The authors of an integrated crime prevention action plan, in order for it to be comprehensive and efficient, should:

(a) Define:

(i) The nature and types of crime problems to be tackled, such as theft, robbery, burglary, racial attacks, drug-related crimes, juvenile delinquency and illegal possession of firearms, taking into account all the factors that may directly or indirectly cause such problems or contribute to them;

(ii) The objectives being pursued and the time by which they should be attained;

(iii) The action envisaged and the respective responsibilities of those involved vis-à-vis the implementation of the plan (for example, whether local or national resources are to be mobilized);

(b) Consider involving a range of actors representing in particular:

(i) Social workers, education, housing and health workers, in addition to the police, the courts, public prosecutors and probation services etc.;

(ii) The community: elected officials, associations, volunteers, parents, victims' organizations etc.;

(iii) The economic sector: enterprises, banks, business, public transport etc.;

(iv) The media;

(c) Consider the relevance to the crime prevention action plan of such factors as:

(i) Relationships in the family, between generations or between social groups etc.;

(ii) Education, religious, moral and civic values, culture etc.;

(iii) Employment, training, measures for combating unemployment and poverty;

(iv) Housing and urbanism;

(v) Health, drug and alcohol abuse;

(vi) Government and community welfare aid for the least fortunate members of society;

(vii) Combating the culture of violence and intolerance;

(d) Consider providing for action at various levels:

(i) Primary prevention:

a. By promoting situational criminal prevention measures, such as target hardening and opportunity reduction;

b. By promoting welfare and health development and progress and by combating all forms of social deprivation;

c. By promoting communal values and respect for fundamental human rights;

d. By promoting civic responsibility and social mediation procedures;

e. By facilitating the adaptation of the working methods of the police and the courts;

(ii) Prevention of recidivism:

a. By facilitating the adaptation of the methods of police intervention (rapid response, within the local community etc.);

b. By facilitating the adaptation of methods of judicial intervention and implementation of alternative remedies:

(i) Diversification of methods of treatment and of measures taken according to the nature and seriousness of the cases (for example, diversionary schemes, mediation, a special system for minors etc.);

(ii) Systematic research on the reintegration of offenders involved in urban crime through the implementation of non-custodial measures;

(iii) Socio-educational support within the framework of the sentence, in prison and as preparation for release from prison;

c. By giving an active role to the community in the rehabilitation of offenders;

(iii) After the sentence has been served: aid and socio-educational support, family support etc.;

(iv) Protection of victims by practical improvements in their treatment by means of the following:

a. Raising awareness of rights and how to exercise them effectively;

b. Reinforcing rights (in particular the right to compensation);

c. Introducing systems of victim assistance.

B. Implementation of the action plan

1. Central authorities

4. The central authorities, to the extent consistent with their competence, should:

(a) Provide active support, assistance and encouragement to local actors;

(b) Coordinate national policy and strategies with local strategies and needs;

(c) Organize consultation and cooperation mechanisms between the various administrations concerned at the central level.

2. Authorities at all levels

5. Competent authorities at all levels should:

(a) Be constantly mindful of respect for the fundamental principles of human rights in promoting these activities;

(b) Encourage and/or implement appropriate training and information to support all professionals involved in crime prevention;

(c) Compare experiences and organize exchanges of know-how;

(d) Provide a means of evaluating regularly the effectiveness of the strategy implemented and provide for the possibility of revising it.

DRAFT RESOLUTION X

African Institute for the Prevention of Crime and the Treatment of Offenders*

The Economic and Social Council,

Recalling General Assembly resolution 46/152 of 18 December 1991, in the annex to which it is stated that the contributions of the regional institutes for the prevention of crime and the treatment of offenders to policy development and implementation and their resource requirements, especially those of the African Institute for the Prevention of Crime and the Treatment of Offenders, should be fully integrated into the United Nations crime prevention and criminal justice programme,

Recalling also General Assembly resolution 48/101 of 20 December 1993 and Economic and Social Council resolution 1993/33 of 27 July 1993,

Noting that the African Institute for the Prevention of Crime and the Treatment of Offenders is playing a vital role in promoting United Nations crime prevention and criminal justice activities and in fostering regional cooperation and coordination in this field,

Bearing in mind the Declaration on the African Institute for the Prevention of Crime and the Treatment of Offenders, 40/ adopted by the African Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Kampala from 14 to 18 February 1994,

Aware of the financial difficulties that the Institute continues to face as a result of the fact that many States of the African region are among the least developed countries, that they continue to experience drought, famine and civil strife, and that they lack the resources necessary to support the Institute,

Taking into account the fact that many African States are engaged in democratization, strengthening the rule of law, undertaking crime prevention and criminal justice reforms, and laying the foundation for respect for and observance of human rights and fundamental freedoms,

1. Commends the African Institute for the Prevention of Crime and the Treatment of Offenders for the activities it has undertaken, despite its difficulties in fulfilling its mandate, as reflected in the progress report of the Secretary-General on the activities of the United Nations Interregional Crime and Justice Research Institute and other institutes; 41/

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* For the discussion, see chap. VI.

40/ A/CONF.169/RPM.2.

41/ E/CN.15/1994/10 and Corr.1, paras. 71-84.

2. Expresses its appreciation to the Government of Uganda for generously providing host facilities to the Institute and for its continuous support;

3. Expresses its appreciation to the Secretary-General and to all other Governments and intergovernmental and non-governmental organizations that have extended support to the Institute;

4. Requests the Secretary-General to ensure that the Institute is provided with adequate funds, within the overall appropriation of the programme budget and from extrabudgetary resources and to submit proposals for any necessary additional funding of the Institute, in accordance with paragraph 56 of General Assembly resolution 48/228 of 23 December 1993;

5. Encourages Governments and intergovernmental and non-governmental organizations to provide financial and technical support to the Institute to enable it to fulfil its objectives, particularly those concerning training, technical assistance, policy guidance, research and data collection;

6. Requests the Administrator of the United Nations Development Programme to continue providing appropriate funds for the institutional strengthening of the Institute and the implementation of its programme of work, taking into account the difficult economic and financial situation faced by many countries in the African region;

7. Urges the Governing Board of the Institute to fill the vacant post of Director as soon as possible;

8. Strongly recommends that the Statute of the Institute be revised in order to update the terms of reference of the Institute, with a view to enabling it to respond sufficiently and effectively to the needs of the African region;

9. Requests the Secretary-General to ensure proper follow-up with all concerned on the implementation of the present resolution, and to report thereon to the General Assembly at its forty-ninth session and to the Commission on Crime Prevention and Criminal Justice at its fourth session;

10. Requests the Commission on Crime Prevention and Criminal Justice to keep the functioning and programme of work of the Institute under active review, aiming at integrating it fully into the overall crime prevention and criminal justice programme, as called for in paragraph 35 of the annex to General Assembly resolution 46/152.

DRAFT RESOLUTION XI

Technical cooperation*

The Economic and Social Council,

Recognizing that criminality is a major concern of all countries and that it calls for a concerted response from the international community aimed at preventing crime and improving the functioning of criminal justice and law

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* For the discussion, see chap. VI.

enforcement with due respect for human rights and United Nations standards and norms,

Bearing in mind General Assembly resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme,

Also bearing in mind General Assembly resolution 48/103 of 20 December 1993, in which the Assembly requested the Secretary-General to provide from existing resources adequate funds to build and maintain the institutional capacity of the United Nations crime prevention and criminal justice programme to respond to requests from Member States for assistance in the field of crime prevention and criminal justice, if necessary through the reallocation of resources,

Recalling that in its resolution 1992/22, section VI, of 30 July 1992, the Council determined that the majority of programme resources should be concentrated on the provision of training, advisory services and technical cooperation in a limited number of areas of recognized need,

Also recalling that in its resolution 1993/34, section II, of 27 July 1993, the Council requested the Secretary-General to strengthen the institutional capacity of the United Nations crime prevention and criminal justice programme by providing the Secretariat with adequate human and financial resources, if necessary by reallocating existing resources, as well as by means of voluntary contributions, to enable it to elaborate, execute and evaluate operational activities and advisory services at the request of Member States,

Convinced that appropriate crime prevention policies are essential to ensuring sustainable development, as crime also affects economic, social and environmental efforts,

Also convinced that developing the skills of crime prevention and criminal justice practitioners is necessary to promote the rule of law and respect for human rights,

Conscious of the relationship between urban and juvenile crime and more sophisticated forms of transnational crime, and the consequent need to fight simultaneously against both phenomena by, among other things, providing technical assistance to countries in need,

Convinced that legal reforms in developing countries and in countries in transition constitute a significant aspect of the process of nation-building in terms of strengthening the rule of law, securing judicial independence and incorporating public involvement in the legal process,

Stressing the fact that providing technical assistance through advisory services, training programmes and the dissemination and exchange of information is one of the most effective means of intensifying international cooperation,

1. Takes note with appreciation of the report of the Secretary-General on technical cooperation and advisory services of the United Nations crime prevention and criminal justice programme, including appropriate mechanisms for the mobilization of resources; 42/

42/ E/CN.15/1994/6.

2. Expresses its appreciation to Member States contributing to the United Nations crime prevention and criminal justice programme, through extrabudgetary funding, the provision of associate experts, manuals and training material, and the services of experts for training purposes and advisory missions, and requests those Member States to continue their support;

3. Welcomes the cooperation between the Secretariat and other United Nations entities, as well as non-governmental organizations, in the planning and implementation of training activities, also as a way of promoting United Nations standards and norms in the field of crime prevention and criminal justice and of increasing the impact of the United Nations crime prevention and criminal justice programme, and calls for the continuation of their support;

4. Reaffirms the urgent need to develop and maintain the institutional capacity of the United Nations crime prevention and criminal justice programme for the planning and implementation of operational activities including training in the field of crime prevention and criminal justice, particularly in line with the priority themes determined by the Economic and Social Council in its resolution 1992/22, section VI, so as to meet the needs of Member States;

5. Endorses the declaration of support for the multilateralization of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, adopted by the Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at San José, Costa Rica, from 7 to 11 March 1994; 43/

6. Reiterates its request to the Secretary-General to provide, within the overall appropriations of the programme budget, human and financial resources for the United Nations crime prevention and criminal justice programme in order to develop the institutional capacity of the programme, in accordance with General Assembly resolution 48/103 on crime prevention and criminal justice, and Council resolution 1993/34 on the implementation of General Assembly resolutions 46/152 and 47/91 and Economic and Social Council resolution 1992/22, concerning crime prevention and criminal justice;

7. Welcomes with appreciation the provision of funds from the regular budget for a second Interregional Adviser post to be assigned to the United Nations crime prevention and criminal justice programme, and strongly recommends that that post be retained in the future;

8. Requests the Secretary-General to provide appropriate resources for the United Nations crime prevention and criminal justice programme in order to ensure adequate support for interregional advisory services;

9. Calls upon those States that have benefited from interregional advisory services to ensure appropriate follow-up to the recommendations of the interregional advisers;

10. Requests the Secretary-General to take action on requests from Member States, bearing in mind the recommendations of the interregional advisers, by formulating specific projects, and to seek funding from donor Governments and institutions for project execution;

43/ See A/CONF.169/RPM.4.

11. Calls upon Member States to provide a basic level of extrabudgetary funds for the United Nations crime prevention and criminal justice programme by contributing to the United Nations Crime Prevention and Criminal Justice Fund;

12. Invites Member States to contribute both financially and in kind to the cooperation projects elaborated within the United Nations crime prevention and criminal justice programme and submitted to Member States for appropriate action;

13. Urges Member States to make all efforts to coordinate their multilateral and bilateral technical cooperation projects with the United Nations crime prevention and criminal justice programme to ensure that all assistance provided is used in a cost-effective manner and oriented towards the overall aims of the projects;

14. Requests the Secretary-General to provide the United Nations crime prevention and criminal justice programme with adequate human and financial resources within the overall appropriations of the programme budget to support technical assistance activities in specific fields considered to be of high priority, such as control of the proceeds of crime, pursuant to Council resolution 1993/30 of 27 July 1993, urban crime prevention, pursuant to Council resolution 1993/27 of 27 July 1993, and environmental crime, pursuant to Council resolution 1993/28 of 27 July 1993;

15. Also requests the Secretary-General to establish a database on technical assistance, integrating needs of Member States, particularly developing countries, as well as on existing collaborative arrangements and funding, taking into account regional concerns, and urges Member States to give full support to this endeavour by providing information, expertise and experiences in the technical assistance field;

16. Welcomes the orientation of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders towards a practical forum for the exchange of experiences and information, particularly through the organization of six workshops that should facilitate contact between representatives of States in need of technical assistance and potential donors;

17. Welcomes with appreciation the contribution of the United Nations crime prevention and criminal justice programme to United Nations peace-keeping and special missions, as well as its contribution to the follow-up to those missions, particularly with respect to strengthening the rule of law and institution-building in the field of crime prevention and criminal justice;

18. Invites Member States to include projects in the field of crime prevention and criminal justice as part of their priority areas for development, and urges the United Nations Development Programme and other funding agencies to provide financial support for the execution of relevant projects as a contribution to sustainable development;

19. Affirms the need to ensure coordination between action under the aegis of the United Nations and other action, either bilateral or multilateral, in order to guarantee the efficiency of cooperation as a whole.

DRAFT RESOLUTION XII

Criteria and procedures for the affiliation with the United Nations of institutes or centres and the establishment of United Nations subregional institutes in the field of crime prevention and criminal justice*

The Economic and Social Council

1. Takes note with appreciation of the report of the Ninth Joint Programme Coordination Meeting of the United Nations Crime Prevention and Criminal Justice Programme Network, held at Riyadh on 24 and 25 January 1994;

2. Welcomes the endorsement by that Meeting of the criteria and procedures for the affiliation with the United Nations of institutes or centres and the establishment of United Nations subregional institutes in the field of crime prevention and criminal justice, developed by the Secretariat in pursuance of Economic and Social Council resolution 1992/22, section IV, of 30 July 1992;

3. Decides to adopt the criteria and procedures for the affiliation with the United Nations of institutes or centres and the establishment of United Nations subregional institutes in the field of crime prevention and criminal justice annexed to the present resolution.

Annex

CRITERIA AND PROCEDURES FOR THE AFFILIATION WITH THE UNITED NATIONS OF INSTITUTES OR CENTRES AND THE ESTABLISHMENT OF UNITED NATIONS SUBREGIONAL INSTITUTES IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

I. SUBSTANTIVE CAPABILITIES, SERVICES AND CONTRIBUTION

1. There has to be a clear commitment to fostering and promoting United Nations criminal policy, in the light of and in response to mandates in the field of crime prevention and criminal justice. The envisaged contributions of the new institutes or centres must complement the United Nations crime prevention and criminal justice programme and be capable of being integrated into its activities.

2. The mandates and fields of operation of the new institutes or centres must be clearly defined, ensuring alignment with the goals, objectives and policy perspectives of the programme and, at the same time, suiting and responding to regional and/or subregional needs and operating in the context of unique regional or subregional conditions and characteristics.

3. High-calibre technical and professional staff and services must be maintained.

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* For the discussion, see chap. VI.

II. POLITICAL SUPPORT AND VIABILITY

4. Strong political support must be evident from those States that would benefit from the services of the new institutes or centres. Thus, the institutes or centres must demonstrate that they are fulfilling certain needs.

III. FINANCIAL FEASIBILITY

5. A sound financial resource base (including human resources and facilities) must be present to ensure financial feasibility and viability. A given amount of funds must be made available for a specified, sufficient period.

6. The facilities, staff and administration must be financially supported at an appropriate level.

IV. PROGRAMME ACCOUNTABILITY AND COORDINATION

7. A mechanism to ensure programme accountability must be established to allow the Secretariat to influence and review activities. The Secretariat is charged with the task of assisting the Commission in its coordination functions and has its own coordination responsibilities. Programme accountability involves, among other things, prior consultations with the United Nations on programmes of work and evaluation of implementation, full membership of the Secretariat on the board of directors of the institute or centre concerned, regular reporting to the Commission on Crime Prevention and Criminal Justice, and other forms of dissemination of information on the institute or centre (its functions, tasks, activities, expenditure etc.).

V. PERIODIC REVIEW AND EVALUATION

8. A system of objective evaluation and procedures for periodic review, essential to ensuring the effective functioning and quality performance of the institute or centre concerned, must be established.

9. To the same end, a trial period of a minimum of three to a maximum of five years must be established, during which time the performance, viability and future capacity of an institute or centre proposed for affiliation should be subject to review by the United Nations.

B. Draft decisions

2. The Commission on Crime Prevention and Criminal Justice also recommends to the Economic and Social Council the adoption of the following draft decisions:

DRAFT DECISION I

Appointment of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute*

The Economic and Social Council decides to endorse the appointment, by the Commission on Crime Prevention and Criminal Justice at its second session, of Sushil Swarup Varma (India) and Simone Rozes (France) to the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute.

DRAFT DECISION II

Organization of work for the fourth session of the Commission on Crime Prevention and Criminal Justice**

The Economic and Social Council decides that, the Commission on Crime Prevention and Criminal Justice at its fourth session, in addition to plenary meetings, should be provided with full interpretation services for eight meetings for informal consultations on draft proposals and for four meetings of an open-ended working group. The working group would discuss, inter alia, the role of the United Nations in promoting the use and application of standards and norms in crime prevention and criminal justice and, as separate questions, violence against women and violence against children in their crime prevention and criminal justice aspects; this decision is taken on the understanding that no more than two meetings will be held concurrently, in order to ensure maximum participation of delegations.

DRAFT DECISION III

Report of the Commission on Crime Prevention and Criminal Justice on its third session and provisional agenda and documentation for the fourth session of the Commission**

The Economic and Social Council:

(a) Takes note of the report of the Commission on Crime Prevention and Criminal Justice on its third session;

(b) Approves the provisional agenda and documentation for the fourth session of the Commission set out below.

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* For the discussion, see chap. VI.

** For the discussion, see chap. VIII.

PROVISIONAL AGENDA AND DOCUMENTATION FOR THE FOURTH SESSION OF THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

1. Election of officers.

   (Legislative authority: rule 15 of the rules of procedure of the functional commissions of the Economic and Social Council and Commission decision 1/101)

2. Adoption of the agenda and organization of work.

   (Legislative authority: Economic and Social Council resolution 1992/1; rules 5 and 7 of the rules of procedure)

3. Consideration of the recommendations of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

   Documentation

   Report of the Ninth Congress on the Prevention of Crime and the Treatment of Offenders, including the results of the demonstration and research workshops held at the Ninth Congress

   (Legislative authority: General Assembly resolution 46/152; draft resolution IX)

4. Review of priority themes.

   Documentation

   Report of the World Ministerial Conference on Organized Transnational Crime

   (Legislative authority: draft resolution I, para. 14)

   Report on criminal justice action to combat the smuggling of illegal migrants

   (Legislative authority: draft resolution III, para. 11)

   Report of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders on the world situation with regard to international traffic in minors

   (Legislative authority: Commission resolution 3/2, para. 4)

   Report of the Secretary-General on the activities of United Nations bodies and institutions with regard to the issue of violence against women and children, containing recommendations of the workshop on the prevention of violent crime held at the Ninth Congress

   (Legislative authority: Commission resolution 3/1, paras. 10, 12 and 13)

5. Technical cooperation and strengthening of the United Nations crime prevention and criminal justice programme.

Documentation

Report of the Secretary-General on technical cooperation and advisory services of the United Nations crime prevention and criminal justice programme

(Legislative authority: draft resolution XI; Commission resolution 3/4, para. 3)

Report of the Secretary-General on strengthening the United Nations crime prevention and criminal justice programme

(Legislative authority: draft resolution V; para. 11)

Statement of the Secretary-General on the financial implications involved in improving the undertaking of clearing-house projects

(Legislative authority: Commission resolution 3/3, para. 10)

6. United Nations standards and norms in the field of crime prevention and criminal justice.

Documentation

Report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice

(Legislative authority: Economic and Social Council resolution 1992/22, section VII, para. 3; and draft resolution VII)

7. Cooperation and coordination of activities with other United Nations bodies and other entities.

Documentation

Report of the Secretary-General on cooperation and coordination of activities in crime prevention and criminal justice, including activities of the United Nations International Drug Control Programme

(Legislative authority: Commission resolution 3/5, para. 7)

Report on the activities of the United Nations Interregional Crime and Justice Research Institute and other institutes, including the African Institute for the Prevention of Crime and the Treatment of Offenders

(Legislative authority: Economic and Social Council resolution 1992/22, section IV, para. 2; and draft resolution X, paras. 9 and 10)

8. Programme questions.

9. Provisional agenda for the fifth session of the Commission.

10. Adoption of the report of the Commission on its fourth session.

C. Matters brought to the attention of the Council

3. The attention of the Council is also drawn to the following resolutions and decisions adopted by the Commission.

Resolution 3/1. Violence against women and children*

The Commission on Crime Prevention and Criminal Justice,

Welcoming the proclamation by the General Assembly, in its resolution 48/104 of 20 December 1993 of the Declaration on the Elimination of Violence against Women,

Recognizing that the effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the Assembly in its resolution 34/180 of 18 December 1979, will contribute to the elimination of violence against women and that the Declaration on the Elimination of Violence against Women strengthens and complements that process,

Concerned that violence against women is an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women, 44/ which recommend a set of measures to combat violence against women, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

Bearing in mind that the Declaration on the Elimination of Violence against Women sets out various forms of physical, sexual and psychological violence against women and provides that States should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to the elimination of violence against women,

Recalling General Assembly resolution 48/110 of 20 December 1993 on violence against women migrant workers, in which the Assembly urged States to ensure that the rights of women migrant workers were protected,

Recalling also Economic and Social Council resolution 1993/26 of 27 July 1993 on violence against women in all its forms,

Recalling further Commission on Human Rights resolution 1993/46 of 8 March 1993, in which the Commission, inter alia, condemned acts of violence and violations of human rights directed specifically against women, 45/

Recognizing the particular role of the Commission on the Status of Women in promoting equality between women and men,

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* For the discussion, see chap. II.

44/ Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

45/ Official Records of the Economic and Social Council, 1993, Supplement No. 3 and corrigenda (E/1993/23 and Corr.2 and 4), chap. II, sect. A.

Bearing in mind that the protection of human rights is a significant consideration in the criminal justice system as a whole,

Calling attention to the fact that it is important that perpetrators of domestic violence receive appropriate punishment and that appropriate crime prevention measures be instituted,

Recalling that the Vienna Declaration and Programme of Action 46/ affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, were incompatible with the dignity and worth of the human person, and must be eliminated,

Recalling also that the Vienna Declaration and Programme of Action stated, inter alia, that effective measures were required against female infanticide, harmful child labour, the sale of children and their organs, child prostitution, child pornography and other forms of sexual abuse, 47/

Recalling further that article 19 of the Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25 of 20 November 1989, states that States parties to the Convention should take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, including sexual abuse,

Noting with satisfaction the action taken under the auspices of the Council of Europe, aimed at setting up an effective instrument to secure the exercise by minors of their rights,

Looking forward to the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing in 1995,

Alarmed by the marked increase in acts of sexual violence directed notably against women and children, as expressed in the Final Declaration of the International Conference for the Protection of War Victims, held at Geneva from 30 August to 1 September 1993, and reiterating that such acts constitute grave breaches of international humanitarian law,

Further alarmed that armed conflicts severely affect the civilian population, in particular women and children, and that situations which lead to impoverishment of families and the serious deterioration of their living conditions contribute to the occurrence of violence against women and children,

Noting the Workshop on Domestic Violence Issues in Central and Eastern European Countries, held at Budapest on 8 and 9 April 1994, organized jointly by the European Institute for Crime Prevention and Control, affiliated with the United Nations, and the Ministry of Justice of the Government of Hungary,

Recognizing the work being done by non-governmental organizations in eliminating violence against women and children, in drawing attention to the nature, severity and magnitude of violence against women and children and in assisting women and children who are victims of violence,

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46/ Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III, para. 18.

47/ Ibid., para. 48.

1. Calls for - in accordance with the Declaration on the Elimination of Violence against Women, the Convention on the Rights of the Child, adopted by the General Assembly in resolution 44/25 of 20 November 1989, and the United Nations Guidelines for the Prevention of Juvenile Delinquency, adopted by the General Assembly in resolution 45/112 of 14 December 1990 - the elimination of violence against women and children in the family, in the general community and where perpetrated or condoned by the State, and emphasizes the duty of Governments to refrain from engaging in violence against women and children and to exercise due diligence to prevent, investigate and, in accordance with national legislation, to punish acts of violence against women and children, whether those acts are perpetrated by the State or by private persons, and to provide access to just and effective remedies and specialized assistance to victims;

2. Calls upon all Governments, as well as intergovernmental bodies and non-governmental organizations, to take all possible steps to eliminate violence against women, in accordance with the Declaration on the Elimination of Violence against Women, and to take all possible steps to eliminate violence against children, in accordance with the Convention on the Rights of the Child, and to disseminate information on those instruments and to promote their understanding;

3. Urges Member States that are not already parties to the Convention on the Elimination of All Forms of Discrimination against Women and to the Convention on the Rights of the Child to become parties to those instruments, and urges Member States that are parties to those instruments to withdraw their reservations that may be relevant to the issue of violence against women and children, and that are contrary to the object and purpose of the conventions or that are otherwise incompatible with international treaty law;

4. Urges Governments, in accordance with their constitutional and legislative systems, to take appropriate action to discourage, in their educational systems and in the mass media, the perpetuation of stereotypes of women and children that may contribute to violence against women and children;

5. Expresses its appreciation of the decisions of the Commission on Human Rights to appoint, at its forty-sixth session, a Special Rapporteur to consider matters relating to the sale of children, child prostitution and child pornography 48/ and, at its fiftieth session, a Special Rapporteur on violence against women; 49/

6. Requests all Governments to cooperate with and assist the special rapporteurs in the performance of their tasks and duties and to furnish all relevant information requested;

7. Invites the special rapporteurs to cooperate closely with the Commission on Crime Prevention and Criminal Justice in the discharge of its functions and to attend the fourth session of the Commission;

8. Urges the Secretary-General to publicize the work of the special rapporteurs and to disseminate their findings and conclusions widely, including

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48/ Official Records of the Economic and Social Council, 1990, Supplement No. 2 (E/1990/22), chap. II, sect. A, resolution 1990/68.

49/ Ibid., 1994, Supplement No. 4 (E/1994/24), chap. II, sect. A, resolution 1994/45.

bringing them to the attention of the Commission on Crime Prevention and Criminal Justice to assist it in its work in the area of violence against women and children;

9. Encourages the strengthening of cooperation and coordination between the Commission on Crime Prevention and Criminal Justice, the Commission on Human Rights, the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and other treaty bodies, the United Nations Development Fund for Women, the United Nations Children's Fund, the United Nations Development Programme and other United Nations agencies, including the International Labour Organization;

10. Requests the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its fourth session on the activities of United Nations bodies and institutions with regard to the issue of violence against women and children;

11. Notes with appreciation the offer of the Government of Canada to translate into French the publication entitled Strategies for Confronting Domestic Violence: A Resource Manual, which was prepared in collaboration with the Government of Canada, the Crime Prevention and Criminal Justice Branch of the Secretariat and the European Institute for Crime Prevention and Control, affiliated with the United Nations, and published in English with the help of the European Institute, and requests the Secretary-General to publish it as soon as possible in the other official languages of the United Nations, subject to the availability of regular budgetary or extrabudgetary funds;

12. Requests the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider violence against women and violence against children as separate questions under topic 4 and in the context of the workshop on the prevention of violent crime and to propose recommendations to the Commission in respect of legislation, procedures, policies, practices, and technical cooperation and assistance, as well as of social services, education and the dissemination of information;

13. Decides to continue its consideration of the issue at its fourth session by having its in-sessional working group examine, as separate questions, violence against women and violence against children in their crime prevention and criminal justice aspects and, more particularly, specific measures which can be taken in that respect, in the light of the international instruments referred to above and the recommendations of the Ninth Congress;

14. Invites the United Nations interregional, regional and affiliated institutes to undertake activities on issues relating to violence against women and children and to submit a report to the Commission on Crime Prevention and Criminal Justice at its fifth session on practical measures that could be taken in the field of crime prevention and criminal justice to combat violence against women and children.

Resolution 3/2. International traffic in minors*

The Commission on Crime Prevention and Criminal Justice,

Bearing in mind that international traffic in minors is one crime that is a growing preoccupation of the world community,

Convinced of the need to provide for the criminal punishment of this form of criminal activity, which is degrading to the individual, not only because it involves illicit practices or exploitation, but also because it involves treating human beings as merchandise,

Calling upon Member States to consider ways of enacting laws and regulations to combat international traffic in minors and to promote cooperation among States,

Mindful that minors, in particular newborn babies, constitute the age group that is the most vulnerable to such activity,

Aware that such activity is necessarily carried out by criminal organizations that have transnational connections, principally in developing countries,

Noting that the international community is directing its efforts at combating those criminal organizations, coordinating global initiatives, such as the convening of the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994,

Bearing in mind the provisions of the Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25 of 20 November 1989, particularly article 11 thereof, in which it is stated that States parties to the Convention should take measures to combat the illicit transfer and non-return of children abroad and, to that end, should promote the conclusion of multilateral or bilateral agreements,

Recalling that the General Assembly, in its resolution 44/82 of 8 December 1989, proclaimed 1994 as International Year of the Family and that international traffic in minors undermined and destabilized the family, the basic element of the social structure,

Recalling also the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s, 50/ adopted by the World Summit for Children, held in New York on 29 and 30 September 1990,

1. Notes the Inter-American Convention on International Trafficking of Minors, adopted and opened for signature at the Fifth Inter-American Specialized Conference on Private International Law, held at Mexico City in March 1994, with the objective of, among other things, preventing and punishing international traffic in minors;

2. Decides that international traffic in minors should be considered by the Commission on Crime Prevention and Criminal Justice at its fourth session,

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* For the discussion, see chap. II.

50/ A/45/625, annex.

in the context of its discussion on the question of organized transnational crime;

3. Requests the Economic and Social Council, at its substantive session of 1994, to consider practical proposals to improve the coordination of efforts being made to deal with this matter by the various organs, specialized agencies and other entities of the United Nations system, including the United Nations Children's Fund and the Commission on Human Rights, and by other interested organs and bodies;

4. Invites the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, in cooperation with the Secretary-General and the other United Nations and affiliated institutes, to prepare a report on the world situation with regard to international traffic in minors, using information available to the United Nations system, for submission to the Commission on Crime Prevention and Criminal Justice at its fourth session;

5. Decides that the matter of international traffic in minors should be given priority consideration by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, under items 2 and 4 of its provisional agenda;

6. Recommends that international traffic in minors should receive attention at the plenary meetings of the General Assembly dealing with the International Year of the Family with regard to the implementation of the relevant standards and procedures.

Resolution 3/3. Information management functions of the United Nations crime prevention and criminal justice programme*

The Commission on Crime Prevention and Criminal Justice,

Recalling General Assembly resolution 46/152 of 18 December 1991 in which the Assembly decided that the United Nations crime prevention and criminal justice programme should provide States with practical assistance, such as data collection, information and experience sharing, and training, to achieve the goals of preventing crime within and among States and of improving the response to crime,

Recalling also General Assembly resolution 45/109 of 14 December 1990 on the computerization of criminal justice, and that computerization of criminal justice information is a means of improving clearing-house functions in criminal justice systems at the national and international levels, including the provision of statistical information that would benefit Governments and the international community by providing data on crime trends and the operation of criminal justice systems,

Recalling further Economic and Social Council resolutions 1992/22 of 30 July 1992 and 1993/34, section IV, of 27 July 1993, in which the Council emphasized the need to strengthen the existing clearing-house facilities of the United Nations crime prevention and criminal justice programme, in relation to

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* For the discussion, see chap. III.

crime prevention and criminal justice issues, and to develop the infrastructural capacity to match the training needs of Member States with the opportunities available to meet them,

Recalling further Economic and Social Council resolution 1993/34, section IV, in which the Council requested the Secretary-General to report to the Commission, at its third session, on progress made in the improvement of computerization in criminal justice management, with emphasis on strengthening national capacities for the collection, collation, analysis and utilization of data,

1. Takes note of the reports of the Secretary-General on the progress of work on the periodical surveys of crime trends, 51/ and on improvement of computerization of criminal justice management; 52/

2. Expresses deep concern about the resource implications for the Crime Prevention and Criminal Justice Branch of the Secretariat in the light of the transfer of functions of the United Nations Criminal Justice Information Network, from the School of Criminal Justice of the State University of New York to the United Nations Office at Vienna;

3. Recommends changing the name of the United Nations Criminal Justice Information Network to the United Nations Crime and Justice Information Network;

4. Urges Member States to join and support the Network, both financially and by providing technical support, as a viable instrument to promote and enhance the dissemination and exchange of information and the transfer of knowledge;

5. Calls on Member States to invite criminal justice agencies to join the Network with a view to providing it with information which may be shared easily with other countries;

6. Also calls on Member States to provide promptly and accurately the statistical information to biennial United Nations crime trends surveys, with a view to enhancing the quality and timeliness of analyses and publications and to facilitate other international surveys sponsored by the United Nations on victims, offenders, criminal justice operations and crime prevention;

7. Further calls on Member States, interregional and non-governmental organizations, and the private sector to assist the Secretary-General in establishing an ad hoc group of experts on computerization of criminal justice information as envisaged in General Assembly resolution 45/109, paragraph 4, with a view to advising him in developing computerization projects dealing with training and funding, as well as the evaluation of such projects;

8. Requests Member States to give serious consideration to strengthening the information management functions of the United Nations crime prevention and criminal justice programme, including technical cooperation programmes on computerization, and to provide technical and financial assistance to the development of related projects, either through the United Nations Crime Prevention and Criminal Justice Fund and/or through secondment of staff, or other appropriate means;

51/ E/CN.15/1994/2.

52/ E/CN.15/1994/3.

9. Requests the Secretary-General to submit an interim report on the Fourth United Nations Survey on Crime Trends and Operations of Criminal Justice Systems to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to intensify the work on regular survey publications;

10. Also requests the Secretary-General to consider strengthening the servicing of the clearing-house projects, including the United Nations surveys on crime trends, operations of criminal justice systems and crime prevention strategies and computerization projects by allocating staff and other resources commensurate with the intensification of work on those projects, and to submit a statement to the Commission at its fourth session on the financial implications involved in improving the undertaking of such projects;

11. Encourages the United Nations Interregional Crime and Justice Research Institute and regional affiliate and associate institutes of the United Nations crime prevention and criminal justice programme to intensify their work in the training of criminal justice statisticians in the framework of periodical United Nations crime trend projects;

12. Encourages those regional and other institutes to consider including in their draft programme budgets appropriate provisions to enable the regular issuance of regional reports on crime trends on the basis of the results of biennial United Nations surveys on crime trends and, as appropriate, reports of the international surveys sponsored by the United Nations on victims, offenders, criminal justice operations and crime prevention.

Resolution 3/4. Succession of States in respect of international treaties on combating various manifestations of crime*

The Commission on Crime Prevention and Criminal Justice,

Noting the considerable changes within the international community in connection with the dissolution of States and the emergence of successor States,

Recalling Commission on Human Rights resolutions 1993/23 of 5 March 1993 53/ and 1994/16 of 25 February 1994, 54/ in which the Commission, inter alia, encouraged successor States to confirm to appropriate depositories that they continued to be bound by obligations under international human rights treaties,

Considering that the widest possible adherence to international treaties in particular those on combating such dangerous crimes as illicit drug trafficking, the taking of hostages and hijacking, is one of the conditions for effective international cooperation in this field,

Emphasizing the special importance of the consistent and effective implementation of international instruments on combating crime,

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* For the discussion, see chap. IV.

53/ Official Records of the Economic and Social Council, 1993, Supplement No. 3 (E/1993/23), chap. II, sect. A.

54/ Ibid., 1994, Supplement No. 4 (E/1994/24), chap. II, sect. A.

Recognizing the need to intensify and coordinate efforts against the most dangerous manifestations of crime in order to ensure concerted global action,

Noting that the confirmation by successor States to appropriate depositories that they continue to fulfil obligations of their predecessor States under international treaties on combating various manifestations of crime is important for successful action by the international community against the evils of crime,

1. Urges successor States to confirm to appropriate depositories that they continue to be bound by obligations under relevant international treaties on combating various manifestations of crime to which their predecessor States were parties;

2. Encourages successor States that have not yet done so to consider becoming parties to those international treaties on combating crime to which their predecessor States were not parties;

3. Requests the Secretary-General to render advisory services, upon request, with regard to the legal aspects of the succession or adherence to international treaties on combating crime to successor States that are Members of the United Nations and to include in his report on technical cooperation, to be submitted to the Commission on Crime Prevention and Criminal Justice at its fourth session, information on progress achieved in that area, to serve as the basis for further consideration of that issue by the Commission.

Resolution 3/5. Coordination and cooperation between the Crime Prevention and Criminal Justice Branch of the Secretariat and the United Nations International Drug Control Programme*

The Commission on Crime Prevention and Criminal Justice,

Convinced that the scope of international cooperation in all fields of crime prevention, criminal justice and drug abuse control should be increased as a matter of priority,

Bearing in mind that effective action and cooperation at the national, regional and international levels depend on improved coordination of all activities related to crime prevention, criminal justice and drug abuse control within the United Nations system,

Recalling General Assembly resolutions 45/179 of 21 December 1990, 46/152 of 18 December 1991 and 48/112 of 20 December 1993, Economic and Social Council resolution 1992/22 of 30 July 1992 and decision 1993/245 of 27 July 1993 and Commission on Narcotic Drugs resolution 8 (XXXVI) of 7 April 1993, 55/

Recalling also General Assembly resolution 48/228 of 23 December 1993, in which the Assembly requested the Secretary-General to strengthen the coordination between the Crime Prevention and Criminal Justice Branch of the Secretariat and the United Nations International Drug Control Programme, taking

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* For the discussion, see chap. VI.

55/ Official Records of the Economic and Social Council, 1993, Supplement No. 9 (E/1993/29/Rev.1), chap. XI.

into account the role of the Director-General of the United Nations Office at Vienna and the observations contained in paragraph IV.51 of the report of the Advisory Committee on Administrative and Budgetary Questions, 56/

Welcoming with appreciation the two conferences to be hosted by the Government of Italy in 1994: the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, to be organized in cooperation with the International Scientific and Professional Advisory Council and held at Courmayeur, Italy, from 17 to 21 June 1994, and the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994,

Noting that the Commission on Narcotic Drugs, in its resolution 1 (XXXVII) of 20 April 1994, requested the United Nations International Drug Control Programme to give appropriate consideration to technical cooperation projects formulated and submitted by the Branch for joint implementation, 57/

1. Decides to take steps towards enhancing active cooperation with the Commission on Narcotic Drugs in order to increase the efficiency and effectiveness of United Nations activities in areas of mutual concern and interest;

2. Welcomes the activities jointly undertaken by the Crime Prevention and Criminal Justice Branch and the United Nations International Drug Control Programme of the Secretariat as described in the note by the Secretariat 58/ on coordination of drug-related activities and cooperation between the Branch and the Programme, and recommends that their coordinated activities be sustained and expanded;

3. Requests the Crime Prevention and Criminal Justice Branch, within the framework of its mandate and within existing financial resources, to cooperate with the United Nations International Drug Control Programme in activities related to the above-mentioned conferences, as well as those for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

4. Requests the Secretary-General to ensure continued coordination of the activities of the Branch and the Programme, with a view to, inter alia, considering an increase in their capacity to undertake mutually compatible operational activities in their fields of competence in order to meet the existing and emerging needs of Member States, as resources permit, in particular with respect to assistance to requesting States in drafting appropriate legislation, the provision of advisory services and the organization of workshops and other training activities;

5. Requests the Branch and the Programme to plan and undertake joint operational activities in areas of mutual concern;

56/ A/48/7.

57/ E/CN.7/1994/7.

58/ Official Records of the Economic and Social Council, 1994, Supplement No. 10 (E/1994/30).

6. Requests the Branch and the Programme to utilize each other's expertise in activities involving matters falling within their respective fields of competence;

7. Requests the Branch and the Programme to continue the meetings begun in 1993 to review mutual activities in relevant areas of concern, which are in their respective fields of competence, such as mutual legal assistance, extradition, money-laundering, organized crime, legislation relating to the proceeds of crime, corruption, incorporation of anti-drug legislation in national penal codes, protection of human rights in the drafting and enforcement of anti-drug legislation, and crime prevention, especially in urban areas, and to report jointly and annually to the Commission on Crime Prevention and Criminal Justice and to the Commission on Narcotic Drugs on progress achieved in strengthening coordination.

Decision 3/101. Report of the open-ended in-sessional working group on United Nations standards and norms in crime prevention and criminal justice*

At its 15th meeting, on 6 May 1994, the Commission on Crime Prevention and Criminal Justice took note of the report of the open-ended in-sessional working group on United Nations standards and norms in crime prevention and criminal justice. 59/

Decision 3/102. Report of the informal open-ended working group on agenda item 7**

At its 15th meeting, on 6 May 1994, the Commission on Crime Prevention and Criminal Justice took note of the report of the informal open-ended working group on agenda item 7. 60/

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* For the discussion, see chap. IV.

** For the discussion, see chap. V.

59/ E/CN.15/1994/L.13.

60/ E/CN.15/1994/L.20.

Chapter II

REVIEW OF PRIORITY THEMES, IN ACCORDANCE WITH COMMISSION RESOLUTION 1/1 ON STRATEGIC MANAGEMENT BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE OF THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

1. The Commission considered item 3 of its agenda at its 1st to 4th, 6th, 7th, 9th to 11th and 13th to 15th meetings, from 26 to 29 April and from 3 to 6 May 1994. It had before it the following documents:

(a) Report of the Secretary-General on progress made in the fourth and fifth surveys of crime trends and operations of criminal justice systems and other initiatives under way to acquire, process and distribute crime prevention and criminal justice data (E/CN.15/1994/2);

(b) Report of the Secretary-General on progress made in the improvement of computerization in criminal justice management, with emphasis on strengthening national capacities for the collection, collation, analysis and utilization of the data (E/CN.15/1994/3);

(c) Report of the Secretary-General on the status of the preparations for the World Ministerial Conference on Organized Transnational Crime (E/CN.15/1994/4);

(d) Report on the meeting of the Ad Hoc Expert Group on Implementing Legislation to Foster Reliance on Model Treaties, held at Vienna from 18 to 21 October 1993 (E/CN.15/1994/4/Add.1);

(e) Report on the meeting of the Ad Hoc Expert Group on More Effective Forms of International Cooperation against Transnational Crime, including Environmental Crime, held at Vienna from 7 to 10 December 1993 (E/CN.15/1994/4/Add.2);

(f) Conclusions and recommendations of the meeting of the Ad Hoc Expert Group on Managing the Risk of Violence in a Criminal Justice System: A Framework of Analysis, held at Chicago, United States of America, from 18 to 20 August 1993 (E/CN.15/1994/4/Add.3);

(g) Note by the Secretary-General on proposals made by Member States on specific objectives and activities, in accordance with Commission resolution 1/1 on strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations crime prevention and criminal justice programme (E/CN.15/1994/5);

(h) Statement submitted by the International Association of Juvenile and Family Court Magistrates, a non-governmental organization in consultative status with the Economic and Social Council, category II (E/CN.15/1994/NGO/6).

2. In introducing the item, the Chief of the Crime Prevention and Criminal Justice Branch noted that the Commission and the United Nations crime prevention and criminal justice programme could be effective only if they remained alert to emerging concerns and needs of the international community, particularly in a constantly and rapidly changing world, with new forms of crime making their appearance suddenly and frequently. At its second session, the Commission had reviewed the priority themes of the programme and had reaffirmed their relevance

to the concerns of Member States. As the consultation process regarding the review of the priority themes, initiated in accordance with the decision of the Commission, had not provided grounds for meaningful conclusions, the Commission might, therefore, consider allowing more time for that process.

3. The Chief of the Branch informed the Commission about the major issues raised in the documentation before it and invited its attention to matters calling for action. He then referred to certain developments that had occurred since the second session of the Commission that deserved particular attention. At its forty-eighth session, the General Assembly had adopted a resolution on prevention of the smuggling of aliens (resolution 48/102). In that resolution, the Assembly had requested the Commission at its third session to consider giving special attention to the question of the smuggling of aliens, in order to encourage international cooperation in addressing that problem. In view of the alarming implications of alien smuggling, and the involvement of international criminal groups, there was a need for urgent action by the international community. The Commission was particularly competent to explore modalities for strengthening international cooperation in that matter and for identifying a course of action for the future. On 11 and 12 April 1994, the Branch had participated in a meeting of experts on tourist safety and security, organized by the World Tourism Organization. The meeting reflected the concerns of Member States, organizations and the private sector over attacks on and threats to tourists, which had threatened the lifeline of many countries. The Chief of the Branch informed the Commission of the recommendations of the meeting and of its request that the Commission consider future action to deal with the problem.

4. All those who spoke on that subject expressed their concern about the occurrence of severe environmental damage in many parts of the world and emphasized that criminal law should have an important role in environmental protection, together with civil and administrative law measures. Traditionally, criminal law was used only if other measures were found to be insufficient. Given the unprecedented growth of "macro-crime", however, with its national and international implications, it was appropriate to give criminal law a greater role. The Commission should continue to give high priority to that area.

5. Following the United Nations Conference on the Environment and Development, held at Rio de Janeiro, Brazil, from 3 to 14 June 1992, there had been an increased awareness among Member States of the environment as a shared heritage of humankind, and of its importance to future generations. Activities of particular concern included the improper disposal of hazardous and toxic wastes, wilful pollution of the environment, negligent or reckless serious environmental damage, and trafficking in endangered species. The accident at the Chernobyl nuclear power plant, which had occurred in 1986, continued to have grave consequences, both in terms of human suffering and environmental degradation, underscoring the potentially disastrous and long-term effects of such incidents.

6. While in some countries, national legislation had been reviewed and new measures for more effective environmental protection had begun to be implemented, the laws in many countries were still fragmented and insufficient to deal with the threat posed by crimes against the environment. Concern was expressed about the fact that corporations were among the perpetrators of some of the more serious environmental offences. For that reason, there was a growing trend in a number of countries to amend national legislation to institute corporate liability under criminal law and to enable the prosecution of corporate offenders. The importance of studying and promoting standards for corporate ethics was emphasized. It was noted that in some developed countries the practice of disposing of hazardous waste by exporting it to less developed

countries should be subjected to more effective controls, since it caused serious environmental degradation and health risks in the importing countries. It was stated that environmental protection measures should be seen in the context of development, and the need to deal with problems such as scarcity of resources, unemployment and overpopulation.

7. It was noted that States should review the application of their criminal laws to environmental protection at the national, regional and international levels. The compatibility and harmonization of different national laws penalizing the harming of the environment was important for effective law enforcement, since mutual assistance treaties required that conduct be an offence in the requesting State, and extradition agreements required dual criminality. Such modalities for international cooperation should be expanded in order to achieve more effective protection of the environment.

8. There should be a global, harmonized approach to the use of criminal law in environmental protection, and specific programmes of action should be developed. Possible modalities for international cooperation included the development of policy guidelines for Member States reviewing legislation, the elaboration of manuals dealing with environmental crime, improved technical standards in areas such as sampling and examination methods for determining levels of pollution, as well as the provision of advisory services on investigation and law enforcement. There was also a need for intensified exchanges of information between States concerning legislation and procedures. It was noted that there were already a number of specific conventions in that area and that their implementation could be improved by more effective mutual assistance and extradition. If necessary, new conventions should be prepared. A number of speakers stated that the elaboration of an international convention on crimes against the environment in general might be premature. It was suggested that one approach to effectively countering the transboundary effects of environmental crimes would be the establishment of an international criminal jurisdiction administered by an international court, which would be empowered to deal with crimes against the environment no matter where they occurred.

9. There was also a need for further in-depth discussion, at an international level, of the proper scope of the criminal law in environmental protection, as well as the range of measures and sanctions available. Such a discussion should include, for example, consideration of the relative merits of more general measures compared with the merits of specific measures, evidential issues in establishing criminal liability, appropriate procedures for prosecution, and the standing of different persons and entities in court actions. It was emphasized, however, that the international community should not allow potential legal complexities to deter it from taking urgently needed global action in that area.

10. The Ninth Congress would provide a forum for establishing a framework for future action. It was noted that valuable work on sustainable development and environmental protection, in general, was being done by a number of intergovernmental and non-governmental organizations on a regional and interregional basis. It was important for the Commission to coordinate its work in that area with other relevant entities.

11. A number of participants welcomed the Declaration on the Elimination of Violence against Women, proclaimed by the General Assembly in its resolution 48/104, and noted with approval resolution 38/3 of the Commission on the Status of Women, pertaining to the same issue. The appointment by the Commission on Human Rights, in its resolution 1994/45, of a Special Rapporteur on Violence against Women was also welcomed. Further discussion of the matter

at the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing in 1995, was considered appropriate.

12. Reference was made to the Workshop on Domestic Violence Issues in Central and Eastern Europe, held at Budapest in April 1994. The workshop had been organized by the European Institute for Crime Prevention and Control, affiliated with the United Nations, in cooperation with the Ministry of Justice of Hungary.

13. It was stressed that much remained to be done, notwithstanding a number of commendable initiatives at the regional and international levels and a variety of international instruments designed to protect the rights of women. In this context, one delegation drew attention to the necessity of establishing a legal mechanism of an international character to protect women who were exposed to injury resulting from the use of any kind of violence against them. It also urged the necessity and coordination with the competent international bodies with a view to considering the drafting of a protocol, supplementary to the Convention on the Elimination of All Forms of Discrimination against Women, on the question of the use of violence against women. Gender-based violence constituted the ultimate form of violence against women. Due to cultural or other differences, violence against women was frequently not addressed as a serious problem. It was emphasized that violence against women, in or outside the family setting, was a criminal act and, as such, had to be dealt with by criminal law and the criminal justice system. It was thus clearly a matter falling within the purview of the Commission, which should continue giving it due priority. Several participants stressed the importance of States relying on their coercive powers in order to deal effectively with the problem of violence against women by making it a criminal offence, regardless of the context in which it occurred.

14. Political, economic and social upheaval, as well as social transition in general, often exacerbated the situation. Many participants strongly condemned the practice of systematic abuse of women and rape in the course of armed conflicts. It was noted that refugee women often fell victim to violence of various forms, and the international community had an obligation to urgently seek effective remedies. The elaboration of model legislation to provide effective mechanisms for the apprehension and punishment of offenders was mentioned as a possibility. It was suggested that the Commission consider undertaking such an initiative in cooperation with other relevant entities. A number of participants made reference to the recent establishment of an international tribunal for war crimes committed in the former Yugoslavia and expressed their support. The establishment of the tribunal constituted a step in the direction of consolidating international law and a manifestation of the determination of the international community to deal with international crimes at the global level. It was suggested that the Commission work closely with the tribunal in its field of competence and assist it in the implementation of its mandate.

15. In many cases, violence against women was domestic violence. The clandestine nature of such a crime rendered prosecution of offenders difficult, since women were often reluctant to report incidents to the authorities due to shame, fear or financial dependence. Campaigns to heighten public awareness of the problem and of its criminal nature were deemed effective and should continue to be undertaken. Moreover, it was considered important to provide women with counselling on how to react in crisis situations and with medical, legal and psychological advice and services; in addition, refuge shelters should be established. The need for a legal basis on which to address domestic violence was emphasized and States were encouraged to make the necessary arrangements.

Furthermore, the need to remove gender-based bias from existing legislation was stressed.

16. The usefulness of Strategies to Confronting Domestic Violence: A Resource Manual (ST/CSDHA/20), as a tool in training programmes and technical cooperation activities, was emphasized. Several participants stressed the importance of having the Manual translated into all the official languages of the United Nations, while one participant stated that his Government intended to have it translated into French and to support work towards the development of a complementary manual with case-studies.

17. Mention was made of the need for ongoing research into the causes of, and effective remedies for, violence against women, including further consideration of the issue of marital rape. As violence often occurred in the family, it was deemed necessary to examine the particular conditions in which it occurred. Participants in the above-mentioned workshop at Budapest identified alcohol and substance abuse, economic disadvantage, overcrowded living conditions, and fundamental changes in traditional family roles as factors behind violence against women. It was stated that while those were relevant factors in certain countries they were considered indicative of certain situations that might be conducive to violence against women in others. Some participants stressed the usefulness of further study and identification of significant trends and contributing factors. It was noted that the Ninth Congress would offer an opportunity for consideration of the matter under its fourth substantive topic and in the workshops on prevention of violent crime and on urban policy and crime prevention.

18. Organized transnational crime was the focus of attention of all speakers. Its rapid expansion and internationalization demanded urgent attention and concerted action by the international community. Organized transnational crime posed a serious threat to economic development and the establishment of democracy and security and jeopardized even the sovereignty of States. It had destructive effects and prevented the establishment of a new economic order. Organized transnational crime had a tendency to establish itself and to gradually expand its operations, taking advantage of gaps and loopholes in legislation and other regulatory measures. That characteristic might be at the root of the lack of priority attention given to it by some Governments and their reluctance to place organized crime at the top of their agendas for action until its operations had grown to almost unmanageable levels. The priority attention accorded to organized transnational crime by the Commission should be continued and efforts should be directed at studying the establishment and expansion methods of organized criminal groups, with a view to devising more effective control strategies.

19. All participants welcomed the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994, and expressed their appreciation to the Government of Italy for offering to act as host to the Conference. The Conference would provide a high-level forum for the expression of the political will of Member States to join forces and spare no effort in effectively combating organized transnational crime. It was hoped that, just as the international community had been able in 1988 to create an effective instrument for the fight against illicit drug trafficking, the necessary will and determination could be mustered to counter organized transnational crime.

20. A number of participants stressed the importance of terrorist crimes as one of the most dangerous forms of organized crime and called for the inclusion of that issue in the work of the Conference.

21. Organized transnational crime called for international collaboration not only to reinforce control mechanisms, but also to prevent such crime from moving into new territories that were less equipped to deal with it and from expanding its operations into new areas and activities. International action should aim at conceiving and designing strategies on the basis of common characteristics of organized transnational crime, including the involvement of several persons in a hierarchically structured group, the profit-making aim, the use of violence and intimidation, corruption, the infiltration of legitimate businesses and expansion across national frontiers. Difficulties in international cooperation stemmed from the great differences that still existed among countries in the comprehension and evaluation of organized crime and, consequently, in the choice of different strategies to combat it, as well as in widely divergent degrees of development of laws and regulations. The international community should strive to arrive at a common perception of organized transnational crime, making it possible to design and implement more mutually compatible national measures, thus considerably increasing the effectiveness of international cooperation.

22. Targeting the proceeds of crime was considered to be of the utmost importance in the fight against organized transnational crime. Effective action at the global level was crucial in preventing and controlling the accumulation of illicit profits and in contributing to the impoverishment and weakening of criminal organizations. Furthermore, the introduction of measures designed to foster transparency in corporate assets and in financial transactions was regarded as particularly important in preventing organized transnational crime from infiltrating the licit economy of a country and in curtailing the ability of organized criminal groups to use international markets for laundering and investing their illicit proceeds. The international community had to develop effective and consistent strategies and measures that would enable it to prevent and control the laundering and use of the proceeds of crime. It was time to move from writing law to applying it. Their strategies should be based on considering the laundering and use of the proceeds of crime a criminal activity per se and should be aimed at increasing the risk to organized criminal groups and at making their activities less profitable. Success would depend on the ability of the international community to cooperate in creating a safety net to protect the transparency of national and international markets. The United Nations had an important role to play in the creation of a safety net, complementing the work of other organizations that had been active in the field for a number of years. Participants welcomed the convening of the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, at Courmayeur, Italy, from 17 to 21 June 1994. It was stated that the Conference, which was being organized by the International Scientific and Professional Advisory Council in cooperation with the Government of Italy and under the auspices of the Crime Prevention and Criminal Justice Branch, could make a significant contribution to strengthening international cooperation.

23. It was noted that technical cooperation, which was deemed essential in the fight against organized transnational crime, could be carried out in many forms. Countries that had accumulated experience in combating organized crime could offer their assistance, with a view to developing and enhancing countermeasures in countries in need. The training of investigative and judicial personnel was considered necessary to raise professionalism and improve skills, also making cooperation between the various national agencies easier and more effective. Assistance could be provided in drafting legislation to prevent and control

organized crime. Moreover, in the field of information exchange, the establishment of national databases and the use of essential technology, particularly computerized systems for collecting and exchanging intelligence, could be worthwhile. Technical cooperation could also be provided in the form of expanding already existing agreements beyond traditional organized crime matters, such as drug offences, to all serious crimes, in particular fraud and other economic crimes, computer crime, environmental crime and the illicit arms trade.

24. Considerable discussion was devoted to law enforcement. Participants emphasized the necessity of enhancing intelligence activities, introducing and developing investigative tools that made it possible to penetrate criminal organizations. The establishment of national specialized investigative agencies, with a view to creating an international network among them, was also stressed. In addition, particular attention should be paid to the problem of witnesses. National legislation could provide incentives for those involved in criminal organizations and for their families when they collaborated with the police and the judiciary.

25. The effective collection, preservation and evaluation of material evidence was considered of particular importance, also in the context of more effective international cooperation. In addition to the sophistication that characterized the operations of organized transnational crime and the fear of retribution that made the collection of evidence difficult, successful prosecution and adjudication of cases involving organized crime were further hampered by divergent evidentiary rules in national laws. It was therefore suggested that efforts should be directed at elaborating model guidelines for evidentiary rules with a view to making national laws more compatible and to enabling investigative, prosecutorial and judicial authorities to cooperate more effectively.

26. Considerable attention was devoted to the various forms of economic crime in which organized criminal groups were increasingly engaging. In addition to laundering the proceeds of crime, organized criminal groups were becoming much more active in manipulating stock and commodity markets. That development called for increased attention in view of the difficulty involved in tracing transactions and otherwise detecting such activity. Furthermore, another matter that was raised by many participants was the link between the operations of organized transnational crime and corruption, which had a potentially devastating impact because of its effects on political institutions. One delegation suggested that an international commission of auditors be established, charged with dealing with corruption, the analysis of financial flows, tax diversion and the sharing of confiscated criminal proceeds among the States involved in specific investigations. With particular reference to corruption, the observer for Spain reiterated the intention of his Government to organize under the auspices of the Branch an interregional meeting of experts in 1994, as a contribution to the preparations for the plenary discussion on the matter to be held during the Ninth Congress.

27. One delegation drew attention to the growing concern about the question of traffic in minors as an example of organized transnational criminality and human degradation. In that connection, reference was made to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography submitted to the Commission on Human Rights at its fiftieth session, in 1994. It was suggested that the Commission accord priority attention to the question, with a view to ensuring an adequate response to the problem at the international level as soon as possible.

28. Reference was also made to the Convention on International Traffic in Minors, adopted in Mexico in March 1994 within the framework of the Organization of American States.

29. Alien smuggling was considered a matter of grave concern for many Governments, especially those of source, transit or destination States. There was currently an upward trend in that criminal activity. Hundreds of thousands of people were being transported illegally. They were subjected to life-threatening conditions during transit, and upon arrival were forced into indentured servitude or criminal activities to pay the smugglers. The smugglers violated domestic and international law, participated in extortion and murder and utilized the profits from such activity to finance other crimes. Criminal legislation should be enacted and enforced to combat the abominable practice, and the Commission should give priority attention to the problem, with a view to promoting more effective international cooperation.

30. Concern was also expressed about the serious situation posed by delays in the administration of criminal justice. The attention of the Commission was drawn to the fact that States represented at the Latin American Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders had recommended that Member States that still had not done so should study the introduction of oral penal procedures to replace the inquisitorial investigative process. The latter was often the source of inordinate delay and lack of transparency, violation of human rights and a large number of prisoners awaiting trial.

31. Regarding progress made in the improvement of computerization in criminal justice management systems, especially the modernization of the administration of criminal justice, a number of participants drew the attention of the Commission to the importance of that issue in combating crime effectively. The modernization of criminal justice management was considered particularly relevant, with emphasis to be placed on the exchange of information, cooperation between law enforcement agencies, improved information management and training.

32. A number of participants stressed the importance of the United Nations surveys of crime trends and operations of criminal justice systems as a tool for data collection, as well as the need for reliable analysis and dissemination of information on the patterns and dynamics of criminality in the world. A more frequent two-year reporting cycle would bring the surveys in line with the fast-changing crime scene, transnationally and nationally, and would be useful in updating publications resulting from the surveys.

33. The attention of the Commission was drawn to the need to make the exchange of information more practical and effective by establishing efficient databases and further developing and improving clearing-house facilities. It was believed that taking such steps would enable criminal justice officials to build on the experience existing in other countries and would enable the United Nations crime prevention and criminal justice programme to undertake international cooperation projects in the field of crime control.

34. Support was expressed for the efforts of the Branch to establish a database for technical cooperation projects in countries of central and eastern Europe, as well as a database in support of efforts to combat transnational crime. Some participants indicated that their Governments intended to provide assistance to the Branch in the form of, inter alia, extrabudgetary resources.

35. A number of participants spoke on electronic data processing and the exchange of data. They stressed the need to develop the computerization of criminal justice information as a mechanism to monitor developments in control of organized transnational crime. It was believed that, while in some countries satisfactory levels had been achieved in the computerization of criminal justice, there was still a considerable need to improve the computerized exchange of data and information at the international level within the framework of the United Nations crime prevention and criminal justice programme. It was also stressed that the computerization of criminal justice systems should be applied at the national and international levels, with due consideration given to the standards prevailing in both developed and developing countries. Emphasis should be given to strengthening national capacities in the least developed countries in that area.

36. Concern was expressed about the fact that some countries were still faced with a shortage of technical skills and that computerized database systems needed to be established to facilitate the effective transfer of technical knowledge and the exchange of information at the national, regional and international levels.

ACTION TAKEN BY THE COMMISSION

Organized transnational crime

37. At the 11th meeting, on 4 May 1994, the representative of Italy introduced a draft resolution E/CN.15/1994/L.4 entitled "Organized transnational crime".

38. The draft resolution was subsequently revised and circulated in document E/CN.15/1994/L.4/Rev.1.

39. At the 13th meeting, on 5 May, the Russian Federation joined in sponsoring the revised draft resolution, which read as follows:

"The Economic and Social Council,

"Alarmed by the expansion and dimensions of organized transnational crime and the increasing sophistication and diversification of the activities of organized criminal groups,

"Alarmed also by the ability of organized criminal groups to transcend national frontiers, taking advantage of regional arrangements designed to foster free trade and of the gaps in national legislation and international cooperation,

"Deeply concerned over the capacity of organized criminal groups to expand their activities and to target economies of countries in transition, thereby posing a grave threat to the viability and further development of those economies,

"Convinced of the urgent need for more effective action against organized transnational crime, to be coordinated at the global and regional levels,

"Convinced also that such action represents an investment in the future for all societies,

"Further convinced that technical assistance in the prevention of organized crime is indispensable and should be given high priority,

"Recalling General Assembly resolutions 46/152 of 18 December 1991, 47/87 and 47/91 of 16 December 1992, and 48/102 and 48/103 of 20 December 1993,

"Recalling also its resolutions 1992/22 of 30 July 1992 and 1993/29 of 27 July 1993,

"1. Takes note of the report of the Secretary-General (E/CN.15/1994/4) to the Commission on Crime Prevention and Criminal Justice at its third session on the status of preparations for the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 24 to 26 October 1994;

"2. Also takes note of the debate held on this topic by the Commission at its third session and of the document submitted to the Commission by the Italian Government at that session, annexed to the present resolution, which contains elements useful for the identification of specific matters to be dealt with by the World Ministerial Conference on Organized Transnational Crime, to be used as a basis for the substantive discussion of the objectives of the World Ministerial Conference;

"3. Reiterates its request to all Member States to be represented at the World Ministerial Conference on Organized Transnational Crime at the highest possible level;

"4. Commends the work done thus far by the Italian Coordination Committee in preparation for the World Ministerial Conference and recommends that its efforts should be continued and intensified to ensure, in close cooperation with the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna, the finalization of all necessary preparations;

"5. Requests the Secretary-General to produce and submit to the World Ministerial Conference background documents on each of its objectives, listed in paragraph 1 of Economic and Social Council resolution 1993/29, seeking input from Member States, in order to assist the World Ministerial Conference in its deliberations;

"6. Recommends that the World Ministerial Conference should take into consideration, inter alia, the conclusions and recommendations of the International Conference on Laundering and Controlling Proceeds of Crime: A Global Approach, organized by the Government of Italy, in cooperation with the International Scientific and Professional Advisory Council and under the auspices of the Crime Prevention and Criminal Justice Branch, which was held at Courmayeur, Italy, from 17 to 21 June 1994, pursuant to Economic and Social Council resolution 1993/30 of 27 July 1993;

"7. Requests the Secretary-General, within existing resources, to continue collecting, analysing and disseminating information on the incidence, expansion and effects of organized transnational crime;

"8. Also requests the Secretary-General, within existing resources, to continue collecting the provisions of national legislation on the prevention and control of organized transnational crime, as well as on

seizure, forfeiture and control of the proceeds of crime, money-laundering, monitoring of large-scale cash transactions and other measures, taking into account the work done by other intergovernmental organizations, and to make them available upon request to Member States desiring to enact or further develop legislation in those areas;

"9. Calls upon Member States to extend their full cooperation to the Secretary-General in performing the task described in paragraph 8 above and to respond promptly to his requests for information on those matters;

"10. Requests the Secretary-General to provide, within existing resources, upon request, advisory services and practical assistance to Member States wishing to adopt legislation or amendments or other measures, and to upgrade the skills of their criminal justice personnel, in order to prevent and control organized transnational crime;

"11. Also requests the Secretary-General, within the overall existing resources of the United Nations, to organize and conduct regional workshops and training programmes to deal with specific aspects of organized transnational crime, in accordance with the specific needs of Member States, such as the impact of organized transnational crime on the economies of countries in transition and its potential threat to regional initiatives designed to foster economic cooperation;

"12. Requests the Commission on Crime Prevention and Criminal Justice to act as focal point in order to facilitate coordination of efforts and relevant activities of other entities of the United Nations system and to closely cooperate with other intergovernmental organizations to maximize the impact of efforts in the field;

"13. Also requests the Commission to continue to accord the utmost consideration to the issue of organized transnational crime;

"14. Further requests the Commission to give appropriate follow-up to the results of the World Ministerial Conference."

"Annex

"Document on the World Ministerial Conference on Organized Transnational Crime

"1. The objectives of the World Ministerial Conference on Organized Transnational Crime were defined by the Economic and Social Council in its resolution 1993/29 of 27 July 1993. They represent five areas on which the ministers attending the Conference will debate and make decisions.

"2. Taking into consideration the five areas and the political nature of the Conference, it should embody the political will of nations to fight organized transnational crime with firmness, but will also pinpoint the fundamental principles of national initiatives and those upon which international cooperation in that area will be based.

"3. It is common knowledge that experience in relation to organized crime is characterized not only by the extreme seriousness of the phenomenon, but also by the strong reaction shown by the authorities.

"4. In recent years, the fight against organized crime has, in a number of countries, paved the way for the introduction of strict and effective legislative rules and for the organization of new operational means that have allowed the authorities to react, often successfully, against the phenomenon, limiting its potential damage to society and individuals.

"5. However, through direct experience, especially in the use of the instruments offered by the criminal justice system, Governments have become aware that for national action to be effective there needs to be cooperation from all nations. The Governments have also come to understand that organized crime is, due to its nature, a pervasive phenomenon. Therefore, the international community should find ways to cooperate, not only in helping the repression of current criminal behaviour, but also in preventing the reallocation of the phenomenon in new territories, where criminal activity can spread more easily.

"6. This need for international cooperation is always accompanied by a common concern and by expressions of political will directed at cooperation, but - unfortunately - a common action does not always follow and, sometimes, mutual assistance is not even possible in individual cases.

"7. It is believed that these difficulties are the result of the great differences that still exist among countries in their understanding and evaluation of the phenomenon and, consequently, in their choice of policies to pursue in fighting organized crime, as well as the result of the different degrees of development of laws and regulations in each country.

"8. Therefore, it is hoped that the Conference will contribute towards the creation of a common perception of organized crime within the international community and that it will lead to the creation of a common concept of the phenomenon, through which it will be possible to lay down proposals for more homogeneous national measures that will also make cooperation more effective.

"9. In order to reach this goal, it should be underlined that, according to experience, positive results are achieved in the fight against organized crime not only by focusing on one or another type of 'definite' crime committed by criminal groups, for example, drug trafficking, extortions, illegal gambling or trafficking. It is important to use regulations and strategies that can be applied to every aspect of criminal activities. In other words, there is a need to devise strategies related to the structural characteristics of organized crime, which besides the essential element of having more individuals organized in a group, include the goal of profit-making; the use of violence, intimidation and corruption; the hierarchy or personal relationships that make it possible to closely control the activities of the group; the economic control of whole territories; the laundering of illegal profits not only in order to organize other criminal activities but also in order to set up legal businesses (with the consequent effect of corrupting them); the great potential expansion of criminal activities beyond national boundaries; and international trafficking often set up in cooperation with other groups of different nationalities.

"10. In the area of organized crime, the Conference and the consequent actions of the United Nations in complementing current programmes of prevention and criminal justice regarding specific crimes should take into account the above-mentioned characteristics.

"11. The analysis of the structural characteristics highlights the importance of there being a series of measures against organized crime, both in the area of substantial and procedural penal law and in the area of international cooperation. It is hoped that the issues presented below will receive particular attention from the various countries and competent international authorities represented at the Conference.

"12. As far as substantial penal law is concerned, particular attention should be paid to 'incrimination' of the participation in a criminal organization. The existence of specific crimes such as the 'association of criminals' of the French law or the 'criminal association' or 'Mafia association' of the Italian penal code or the various types of 'conspiracy' of other criminal laws, should be used as an example. In Italy, for example, the 'association' crimes have played a great role in criminal justice intervention against organized crime.

"13. The use in all nations of similar, if not identical, types of incrimination for members of criminal organizations can help reduce the reallocation of organized crime and will facilitate legal cooperation, especially when it requires double incrimination.

"14. The hoarding of large amounts of capital originating from criminal activities, not only from drug trafficking, and the resulting need of criminal organizations to launder these profits and invest them in legal businesses leads, as far as the substantial penal law is concerned, to the necessity of incrimination of such acts in relation to any kind of profit-making criminal activity. Particular attention should also be given to correct and well-defined incrimination of economic crimes.

"15. For the same reason, it is important not to neglect preventive measures, ensuring a clear definition of the position of the owners of companies and accurate control of acquisitions and transfers; a high ethical standard in public administration and financial institutions; and the cooperation of authorities in charge of regulating financial and economic sectors, as well as those in charge of applying the penal code.

"16. The fight against organized crime is based on strategies aimed at defeating the economic power of criminal organizations. In the opinion of the Italian Government, these strategies should also involve criminal law measures, in particular in the field of sanctions.

"17. Sanctions or measures such as the confiscation of goods are of great importance to the achievement of these goals. Such measures can prevent the hoarding of illegal profits and make a great contribution towards the destabilization of criminal groups by eliminating their resources.

"18. It should be noted that - under specific conditions and always through judicial proceedings - it is possible to confiscate illegal profits even without a verdict of guilty, or to confiscate sums that are definitely higher than those relating to the crime for which judgement has been passed. This possibility should be taken into consideration when discussing the enactment of new regulations relating to confiscation or the modification of existing ones.

"19. As far as police action and criminal proceedings are concerned, it should be pointed out that in proceedings related to organized crime, the investigative aspect and that of the research of evidence present peculiar

characteristics. The importance of three main points related to these topics should be stressed: the increase of 'intelligence'; the introduction and development of investigative methods that will make it possible to 'penetrate' criminal organizations; and investigative methods and provisional measures aimed at preserving illicit profits, thus facilitating their confiscation.

"20. As far as intelligence is concerned, it is clear that organized crime is a phenomenon that needs to be studied and understood more than other less structured crimes. It is crucial to obtain more information on the general organization of the criminal groups, on the types of trafficking on which those groups thrive, on the interrelationships of the various groups, on the means that they commonly use to sustain themselves and on anything else that provides a better view of this very complex combination of activities, people and means.

"21. Specialized investigative units should be created to fulfil the investigative requirements. Measures should also be adopted in order to facilitate the use of means of information-gathering, such as the interception of communications, controlled deliveries, and statements made by cooperating witnesses.

"22. In promoting the use of these means in carrying out research and gathering evidence, it is necessary to keep in mind the fact that the limits of the law must not be exceeded.

"23. In some countries, these means have proved to be of the utmost importance for the successful outcome of investigations.

"24. Still keeping in mind this area of operation, the Conference should also discuss the issue of financial investigations. Under that issue, three main requirements should be emphasized: the development of a technical understanding of financial operations in police departments and among prosecutors (and as far as trials are concerned, even among judges); the need to eliminate obstacles created by the law during investigations in relation to financial institutions; the need to assign an active role to those financial institutions (and, when appropriate, to economic institutions, which are often used in money-laundering) in the first steps of an investigation of suspicious transactions.

"25. It should be noted that the strategy of 'penetrating' criminal organizations, both for intelligence purposes and for those relating to the research and gathering of evidence, strongly depends on the testimony of members of criminal organizations. This should lead to the introduction of measures that can encourage such testimony, provide the cooperating witnesses and their families the necessary protection, through adequate protection programmes, and - within the limits imposed by national laws - provide 'rewards' in the form of penalty reductions for witnesses who are also charged with criminal offences.

"26. One final important issue that should be discussed during the Conference is international cooperation during investigations and proceedings.

"27. The analysis and the considerations of the Conference should be developed along four fronts. Because of the importance of bilateral and multilateral assistance (with particular reference to extradition and

mutual assistance in investigation and research of evidence), the lack of agreements critically hinders the development of effective cooperation.

"28. First, the Conference should take into account this problem and should promote the development of international agreements in the above-mentioned areas. More widespread knowledge of 'model' agreements prepared by the United Nations could help promote the use of such international agreements.

"29. The second front is improving the practical application of existing agreements. This could be achieved by informal agreements and operational instruments - such as the publication and exchange of manuals for a better understanding of national procedures, the creation of 'central national authorities' in charge of interstate affairs and specialized in solving particular problems raised by them; the creation of 'contact points', in the form of public officials, which will facilitate the proceedings thanks to informal communications.

"30. The third front - perhaps the most difficult one - is devising adequate measures for international cooperation that are aimed specifically at fighting organized crime and are more specific than those generally applicable to other crimes. A study of these measures should take into account the above-mentioned structural characteristics of organized crime and could benefit from a comparative study between what is described in the 'models' as opposed to what is contained in treaties and in the other advanced provisions that come under 'specialized' agreements for serious criminal offences, for example, those in United Nations conventions on drug trafficking.

"31. The fourth front is the international exchange of intelligence, also as a preventive measure. Among other things, a study of the most adequate forms of international assistance among 'non-police administrative bodies' could be useful; such bodies would include, for example, the administrative bodies of financial sectors that are competent in such areas as the analysis of financial flows and/or in the investigation of suspicious transactions.

"32. The Conference should be interested in the general problem of researching and passing on information, at an international level, on organized crime and on legislative and organizational regulations set up in individual countries. The role of the United Nations in this matter could be of great importance and the Conference could outline the tasks of the Commission and of the programme in this area. Moreover, this activity of information research could be the foundation for the development of technical cooperation with countries that are in need of such assistance.

"33. For the effectiveness of international cooperation against organized crime, there is also a need to initiate activities involving thorough technical cooperation in which the more developed countries will have to show their strong commitment by investing in the necessary resources.

"34. No action at an international level can achieve positive results if developing countries are not given an opportunity to create and improve an appropriate judicial system and to use proper tools for investigations, evaluations, intervention, interchange, incrimination and the carrying out of penalties.

"35. The awareness of the seriousness of this international challenge can be achieved by the systematic exchange of experiences, by the proper training of police and judicial staff and by the use of effective countermeasures.

"36. This awareness will positively affect the operational and legislative plans that will gradually be carried out in order to fight organized crime at the international level.

"37. This prospect becomes more evident considering that criminal organizations will be inclined to expand their illegal activities in the least developed areas as long as more effective countermeasures are adopted in the most developed countries.

"38. In such a situation, organized crime will concentrate on those countries where the financial and economic sectors show lower resistance to criminal penetration.

"39. It is, therefore, fundamental that all existing technical, bilateral and multilateral activities involving technical cooperation are well focused and that means for coordinating such activities are studied in order to avoid overlapping actions.

"40. A final aspect that should be given serious consideration is proper economic compensation for the victims of organized crime. This compensation should be charged to the person responsible for the crimes committed. Consideration should be given to the creation of a special fund to compensate victims when compensation cannot be charged to the person responsible; such a fund might be partially subsidized by seized capital.

"41. The Commission on Crime Prevention and Criminal Justice at its third session has provided comments to focus attention on the most important issues of the Conference.

"42. In particular, discussions on possible close approximation of national legislation with regard to the incrimination of organized crime and related criminal justice measures should be actively pursued.

"43. As to technical cooperation, the three following areas of intervention appear to be of particular interest:

"(a) Assistance should be provided in drawing up laws in those countries that still do not have a penal system suitable for fighting organized crime;

"(b) Special training courses for all personnel involved in the field should be planned and carried out. Specific training should be provided for police staff, investigating judges and magistrates, and all those persons who provide technical cooperation to investigative organizations;

"(c) Technical assistance should be provided to those high-risk areas through the gathering, analysis and exchange of data on criminal organizations and related activities.

"44. In relation to the question of which instruments are proper for the development of future action, it is believed that bilateral cooperation, especially through agreements between a growing but still limited number of

countries, has highlighted inadequacies in the fight against organized crime. Through new agreements, new judicial measures and instruments could be tested. These could involve the whole international community.

"45. It is the Conference that will identify the action and decisions to be carried out within the programme of work of the Commission. The Economic and Social Council, in its resolution 1993/29, stated that one of the objectives of the Conference would be to consider the feasibility of elaborating international instruments, including conventions, against organized transnational crime.

"46. It is believed that decisions will be taken only when more precise ministerial choices concerning substantial matters become clear. This could create binding instruments, as indicated in resolution 1993/29, or the opportunity to establish different tools from binding legal agreements such as models of technical agreements; manuals for police and judicial cooperation; publications or other communication devices, or even computer controls for storing and updating information on organized crime and on legal and practical countermeasures adopted in different countries."

40. At the 14th meeting, on 6 May, Armenia, 61/ Belarus, 61/ Belgium, 61/ Bulgaria, Canada, 61/ China, Croatia, 61/ Ethiopia, 61/ France, Greece, 61/ Hungary, Israel, 61/ Malta, 61/ Nigeria, the Philippines, Poland, Portugal, 61/ Romania, 61/ Saudi Arabia, 61/ Spain, 61/ Tunisia, Turkey, 61/ Uganda, the United Arab Emirates, 61/ the United States of America and the United Kingdom of Great Britain and Northern Ireland 61/ joined in sponsoring draft resolution E/CN.15/1994/L.4/Rev.1.

41. Also at the 14th meeting, the Vice-Chairman of the Commission, Mr. Ferdinand Mayrhofer-Grünbühel (Austria), introduced a draft resolution (E/CN.15/1994/L.26), submitted on the basis of informal consultations held on draft resolution E/CN.15/1994/L.4/Rev.1.

42. The Commission then adopted draft resolution E/CN.15/1994/L.26 (see chap. I, sect. A, draft resolution I).

43. In the light of the adoption of draft resolution E/CN.15/1994/L.26, draft resolution E/CN.15/1994/L.4/Rev.1 was withdrawn by the sponsors.

The role of criminal law in the protection of the environment

44. At the 9th meeting, on 3 May 1994, the representative of Germany, on behalf of Argentina, 61/ Australia, Canada, 61/ Finland, Germany, the Netherlands, 61/ Poland and the United States of America, introduced a draft resolution (E/CN.15/1994/L.5) entitled "The role of criminal law in the protection of the environment".

45. The draft resolution was subsequently revised and circulated in document E/CN.15/1994/L.5/Rev.1, which read as follows:

61/ In accordance with rule 69 of the rules of procedure of the functional commissions of the Economic and Social Council.

"The Economic and Social Council,

"Recalling General Assembly resolution 45/121 of 14 December 1990, on the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Assembly welcomed the instruments and resolutions adopted by the Eighth Congress, including the resolution on the role of criminal law in the protection of nature and the environment,

"Recalling also General Assembly resolution 46/152, annex, of 18 December 1991, in which the Assembly called for the strengthening of regional and international cooperation in combating transnational crime,

"Recalling its resolution 1993/28 of 27 July 1993 on the role of the criminal law in the protection of the environment, in which it took note of the conclusions, contained in the annex to that resolution, of the Seminar on the Policy of Criminal Law in the Protection of Nature and the Environment in a European Perspective, held at Lauchhammer, Germany, from 25 to 29 April 1992,

"Recalling also its resolution 1993/32 of 27 July 1993 on preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Council approved the provisional agenda for the Ninth Congress, including an item entitled 'Action against national and transnational economic and organized crime, and the role of criminal law in the protection of the environment: national experiences and international cooperation', and endorsed the programme of work for the Ninth Congress, including the holding of six workshops, one of them on the topic 'Environmental protection at the national and international levels: potentials and limits of criminal justice',

"Recalling further the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, in which the World Conference recognized, inter alia, that illicit dumping of toxic and dangerous substances and wastes potentially constituted a serious threat to the human rights to life and health of everyone,

"Taking note of the recommendations of the regional preparatory meetings for the Ninth Congress relating to the protection of the environment through criminal law,

"Noting with appreciation the work on the topic 'Environmental protection at the national and international levels: potentials and limits of criminal justice' being undertaken by the United Nations Interregional Crime and Justice Research Institute, in view of the workshop on the same topic to be held at the Ninth Congress,

"Taking note of the report of the International Law Commission on the work of its forty-third session, in particular the draft Code of Crimes Against the Peace and Security of Mankind, article 26, on wilful and severe damage to the environment, and the draft articles on State responsibility, in particular article 19, on international crimes and international delicts,

"Noting the recommendation of the colloquium of the International Association of Penal Law held at Ottawa, Canada, in November 1992, to be considered for adoption by the fifteenth International Congress on Penal Law, to be held at Rio de Janeiro, Brazil, in 1994,

"Noting with appreciation the work of the Ad Hoc Expert Group on More Effective Forms of International Cooperation against Transnational Crime, including Environmental Crime, held at Vienna from 7 to 10 December 1993,

"Taking note of the report of the International Meeting of Experts on the Use of Criminal Sanctions in the Protection of the Environment, Internationally, Domestically and Regionally, held at Portland, Oregon, United States of America, from 19 to 23 March 1994, in particular the recommendations as to the terms of a possible convention on transnational offences against the environment; the possible draft domestic criminal statute addressing environmental issues; and the recommendations as to a possible structure and operation of a regional enforcement regime,

"Convinced that the environmental situation in developed countries, as well as in developing countries, is the cause of increasingly serious concern about damage to the environment and its constituent elements, including water, soil, air, atmosphere, and the living species, including plants, animals and humans, and that it requires comprehensive and integrated approaches to the use of countermeasures at the national, regional and international levels,

"1. Takes note of the recommendations concerning the role of criminal law in protecting the environment of the Ad Hoc Expert Group on More Effective Forms of International Cooperation against Transnational Crime, including Environmental Crime, held at Vienna from 7 to 10 December 1993, which are contained in the annex to the present resolution;

"2. Requests that the report of the International Meeting of Experts on the Use of Criminal Sanctions in the Protection of the Environment, Internationally, Domestically and Regionally, held at Portland, Oregon, from 19 to 23 March 1994, be published as an official United Nations document and be included in the documentation to be prepared for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

"3. Requests the Secretary-General to take the conclusions of the Seminar on the Policy of Criminal Law in the Protection of Nature and the Environment in a European Perspective, held at Lauchhammer, Germany, from 25 to 29 April 1992, and the recommendations of the Ad Hoc Expert Group and of the Portland Meeting into consideration by developing further activities in the United Nations crime prevention and criminal justice programme;

"4. Requests the United Nations Environment Programme, the Commission on Sustainable Development, the Inter-Agency Committee on Sustainable Development and the United Nations Development Programme in the context of its Capacity 21 programme, to take into account the present resolution in their deliberations concerning environmental protection, and to coordinate any relevant follow-up activities with the Commission on Crime Prevention and Criminal Justice;

"5. Invites Member States and relevant bodies concerned to continue their efforts in protecting nature and the environment by developing laws and fostering legal and technical cooperation and, when developing criminal laws related to the protection of the environment, to consider the recommendations annexed to the present resolution.

"Annex

"Recommendations concerning the role of criminal law in protecting the environment

"Member States should consider adopting the following recommendations concerning the role of criminal law in protecting the environment:

"(a) Specific environmental legislation should be further developed on the basis of generally recognized principles, such as the 'polluter pays' principle described in principle 16 and the 'precautionary principle' described in principle 15 of the Rio Declaration on Environment and Development, adopted by the United Nations Conference on Environment and Development, giving due and balanced consideration to the need to protect the environment in other parts of the law, and in the context of improving political and social conditions for a responsible environmental policy;

"(b) National and supranational authorities should be provided with a wide array of measures, remedies and sanctions, within their constitutional and legal frameworks and consistent with the fundamental principles of criminal law, in order to ensure compliance with environmental protection laws. They should include regulatory and licensing powers, incentives, administrative enforcement mechanisms, and punitive administrative, civil and criminal sanctions for impairing or endangering the environment. They should also include provisions for the forfeiture of profits and proceeds of crime, and of property used or employed in the commission of crime, such as vessels, vehicles, tools, equipment and buildings;

"(c) Environmental criminal law should be aimed at promoting all the important components of the environment, including human beings and other living species. It should be directed, in particular, to the regulation, control and, where necessary, the complete prohibition of hazardous activities, including the establishment and operation of hazardous installations, and the illegal import, export, movement and disposal of hazardous materials and wastes;

"(d) Substantive environmental criminal law should formulate at least certain core criminal offences. These core offences, which could be autonomous and independent of environmental regulatory laws, should include deliberate, reckless or negligent assaults on the environment that cause or create imminent risks of serious damage, harm or injury. In addition, criminal sanctions should be extended to deliberate, reckless or negligent violations of administrative rules where there is a likelihood of serious harm or danger to the environment. In developing such criminal offences, the field guide contained in the annex to the report by the United Nations Interregional Crime and Justice Research Institute and the Australian Institute of Criminology entitled Environmental Crime, Sanctioning Strategies and Sustainable Development (UNICRI 49) should be taken into consideration;

"(e) Subject to relevant international conventions, States should seriously consider enacting legislation prohibiting and sanctioning the export of products that have been banned from domestic use because of their deleterious impact on the environment and human health. Furthermore, Governments might consider the idea of banning the production and import of

specific dangerous materials unless sufficient precautionary measures can be taken in respect of their use, treatment or disposal in their countries;

"(f) Environmental crimes should cover intentional as well as reckless acts. When serious harm or actual danger of harm has been caused or created, however, negligent conduct should also be a crime if the persons responsible have significantly departed from the care and skill expected of them in the pursuit of their activities. In relatively minor cases, the imposition of fines, including administratively or judicially imposed non-criminal fines, and other non-custodial alternatives should be sufficient;

"(g) Support should be given to the extension of the idea of imposing criminal or non-criminal fines or other measures on corporations in jurisdictions in which corporate criminal liability is not currently recognized in the legal systems;

"(h) When using criminal law in environmental protection and creating new environmental crimes, consideration should be given to the need for law enforcement resources. Cooperation and coordination between criminal justice agencies and administrative agencies should be promoted, especially in jurisdictions where prosecutions are undertaken by criminal justice agencies. Furthermore, the judiciary should be sensitized to the seriousness of environmental offences and their consequences. Adequate staffing, special training and equipment should be provided to criminal justice agencies;

"(i) In designing environmental law enforcement strategies, the legislator should consider in the framework of the constitution and the basic principles of the legal system, the rights of identifiable victims, victim assistance, facilitation of redress and monetary compensation, by removing legal barriers such as standing to sue, participation in proceedings and actions by citizens, including class action suits and citizen suits;

"(j) In accordance with the various provisions of Agenda 21, adopted by the United Nations Conference on Environment and Development, such as those contained in chapters 8, 38 and 39 of Agenda 21, collaboration with non-governmental organizations in efforts aimed at the prevention of environmental crimes and the effective redress of damage to health and the environment should be encouraged. Examples of such efforts are the ombudsman-like functions and alternative methods for resolving disputes currently being developed by the Earth Council, a non-governmental organization referred to in chapter 38 of Agenda 21;

"(k) On the basis of proposals put forward by the International Law Commission and the discussions at the United Nations Conference on Environment and Development, Member States should consider acknowledging the most serious forms of environmental crimes in an international convention;

"(l) States should be encouraged to contribute to the codification work of the International Law Commission, in particular in further refining the concept of international crimes and delicts in article 19 of the draft articles on State responsibility and the concept of environmental crimes in article 26 of the draft Code of Crimes against the Peace and Security of Mankind;